

Memorandums/Information on
Presidential Mandated Training
for Supervisors, Hiring
Managers, HR Community
(0201/0203), and Anyone
Participating in a Hiring Panel

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If you still have questions after reviewing this document, please send your questions to link
above.

ALCON,

This is a response to queries on why you received the robot e-mail subject: Mandatory Training for Supervisors, Hiring Managers, and HR Community.

The **four mandatory trainings** identified in the subject e-mail are Presidential Mandated Training, and you can go to link below to read the four Presidential mandates with OPMs letters to all federal agencies.

The training is for **all in occupational codes 0201/0203 HR Community** and **all in Supervisory Status Codes 1 through 7**. Understanding that you may not be in a supervising position, you are able to participate in a hiring panel. If you feel that you should have not received the subject e-mail; please get with your supervisor and make them aware of your concerns.

➤ ***38 U.S.C. 4335, Uniformed Services Employment and Reemployment Rights Act (USERRA):***

This training is applicable to both **APF and NAF** supervisors, hiring managers, and HR personnel in the 0201/0203 occupational series and are required to complete this training. This is a **Mandatory Annual Training** that must be completed by **May 31st** of each fiscal year.

➤ ***Executive Order 13518, Veteran Employment Training for Federal Hiring Managers & HR Professionals:***

This **Mandatory Annual Training** applies to **APF** supervisors, hiring managers, and HR personnel in the 0201/0203 occupational series and are required to complete this training which includes training on veterans' preferences and special authorities regarding the hiring of veterans.

➤ ***Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities (IwD):***

This **Mandatory One Time Training** applies to all **APF** and **NAF** supervisors, hiring managers, and HR personnel in the 0201/0203 occupational series and are required to complete this training. Promotes the hiring and retention of qualified IwD in the Federal Government; agencies must provide training to human resources personnel, supervisors, and hiring managers.

➤ ***Presidential Memorandum January 31, 2014 -- Enhancing Safeguards to Prevent the Undue Denial of Federal Employment Opportunities to the Unemployed and Those Facing Financial Difficulty Through no Fault of Their Own***

This **Mandatory One Time Training** applies to **APF** and **NAF** supervisors, hiring managers, and HR personnel in the 0201/0203 occupational series and are required to complete this training. The Federal Government is America's largest employer. While seeking to employ a talented and productive workforce, it has a responsibility to lead by example. Although executive departments and agencies (agencies) generally can, and do, take job applicants' employment history and other factors into account when making hiring decisions, it is the policy of my Administration that applicants should not face undue obstacles to Federal employment because they are unemployed or face financial difficulties. Agencies must provide training to human resources personnel, supervisors, and hiring managers.

COMMON QUESTIONS AND ANSWERS

These are most common questions that came in on Presidential Mandated training. The source documents follow the Q & A for your review.

1. **Q:** Why do I need to take the four mandatory training? **A:** These training are Presidentially Mandated to have supervisors, hiring managers, HR professionals, and anyone that participate in a hiring panel.
2. **Q:** How did my name get on this list? **A:** Air Force decided to use Supervisory Codes 1 through 7 understanding anyone coded as such would be identified as a supervisors, hiring managers, and able to participate in a hiring panel. Unless your supervisor codes change, you will receive the e-mail telling you about tis Presidential Mandate.
3. **Q:** I am not in the HR Communnality (0201/0203), why did I receive this e-mail? **A:** AF is following the Presidential Mandate; the query when out for all that have Supervisory Codes 1 through 7.
4. **Q:** I do have the Supervisory Codes 1 through 7, but I am not a supervisor, I am not a hiring manager, and I don't participate in a hiring panel. How can I be excused from taking these Presidential Mandated training? **A:** You will have to work with your supervisor and identify your concerns to them.
5. **Q:** Why do I have to take this training; I am in the HR Community but I am not a supervisor, I am not a hiring manager, and I don't participate in a hiring panel? **A:** The Presidential Mandate made it mandatory that all in the HR Community has to take training.
6. **Q:** How much time do I have to spend in each of the four mandated training (MT)? **A:** All depends on the motivation of the individual: MT Course I. USERRA - e-Learning 30 min if that; MT Course II. Vet- HRU site states 1 hour for each (HM or HR Prof), but it can be completed in 25-30 minutes each if that; MT Course III. IwD - HRU site states 1 hour, but it can be completed in 25-30 minutes if that; and MT Course IV. Those Facing Financial Difficulty Through no Fault of Their Own—15 minutes if that--individuals need to print the last page (certificate) pdf, and write name and date on it certificate for their records.
7. **Q:** How often do I have to take these Presidential Mandated training? **A:** MT Course I. USERRA – annual requirement (1 Aug through 31 May); MT Course II. Veterans Employment – annual requirement; MT Course III. IwD – one time requirement (the sooner the better); and MT Course IV, Those Facing Financial Difficulty Through no Fault of Their Own – one time requirement.
8. **Q:** Will I receive reminders on annual bases? **A:** Yes, if you still have the Supervisory Codes 1 through 7, are a hiring manager, in the HR Community, and participate in a hiring panel.
9. **Q:** The links are not working on the AMS e-mail, what can I do? **A:** Please follow instructions in the AMS e-mail; you have technicians at AF e-Learning; you have technicians at HRU; and you have technicians at My Portal.



The Director

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

SEP 10 2013

MEMORANDUM FOR HEADS OF DEPARTMENTS AND EXECUTIVE AGENCIES

FROM: ELAINE KAPLAN
ACTING DIRECTOR

A handwritten signature in blue ink, appearing to read "a k", positioned to the right of the typed name and title.

Subject: Uniformed Services Employment and Reemployment Rights Act Guidance

The President's July 19, 2012, memorandum titled, "Ensuring the Uniformed Services Employment and Reemployment Rights Act (USERRA) Protections" directs agencies to take steps to ensure robust compliance across the Federal Government with USERRA's employment and reemployment protections. Section 2 of this memorandum directs the Office of Personnel Management (OPM) to issue guidance to Federal agencies on ways to improve USERRA protection policies and practices. Ensuring USERRA protections is especially important at a time when many servicemen and women are returning from service in the conflicts in Iraq and Afghanistan. The attached guidance contains strategies your agency can use to strengthen its response to USERRA.

If you have any questions or need additional information please contact Ms. Katika Floyd at (202) 606-9531 or Katika.floyd@opm.gov.

Attachment

cc: Chief Human Capital Officers

U.S. Office of Personnel Management

Guidance on Ensuring USERRA Protection

Overview

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) protects individuals performing, or who have performed, uniformed service in accordance with 38 U.S.C. 4301-4335 from employment discrimination on the basis of their uniformed service, and provides for their prompt restoration to civilian employment when they return to civilian life. Uniformed service means the Armed Forces; the Army National Guard and the Air National Guard, when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the Commissioned Corps of the Public Health Service; and any category of persons designated by the President in time of war or emergency.

USERRA is intended to ensure that these uniformed service members are not disadvantaged in their civilian careers because of their service, are promptly reemployed in their civilian jobs upon their return from duty, and are not discriminated against in employment because of their military status or uniformed service obligations. The President's July 19, 2012, memorandum titled, "Ensuring the Uniformed Services Employment and Reemployment Rights Act (USERRA) Protections," directs agencies to take steps to ensure robust compliance across the Federal Government with USERRA's employment and reemployment protections. Section 2 of this memorandum directs the Office of Personnel Management (OPM) to issue guidance to Federal agencies on ways to improve USERRA protection policies and practices. The purpose of this guidance is to support Federal agencies in robustly complying with USERRA protections through training, new data collection procedures, new USERRA metrics, guidance and tools, and by strengthening relationships between service members and stakeholder groups.

Training

The Veterans' Benefits Improvement Act of 2008, Public Law (P.L.) 110-389, October 10, 2008, requires all Federal agencies to provide Uniformed Services Employment and Reemployment Rights Act (USERRA) training. The mandatory USERRA training is to be provided to "any personnel of the agency who are authorized to recommend, take, or approve any personnel action that is subject to the requirements of this chapter with respect to employees of the agency." Consistent with this law, agencies must provide USERRA training at least once during Fiscal Year (FY) 2013 and annually thereafter.

- Employees subject to the mandatory OPM-approved USERRA training requirements include human resource professionals, hiring managers, and any employee involved in interview panels, review boards, etc.
- Agency employees must complete the mandatory USERRA training by July 31st of each fiscal year.

- Agencies must report to OPM the number and percentage of employees subject to mandatory OPM-approved USERRA training requirements so trained during the fiscal year by September 30th of each year.
- Agencies are encouraged to use Department of Labor’s USERRA e-learning application on HR University at http://hru.gov/course_catalog.aspx?cid=33&mgr=false or the training provided to agencies by OPM on September 21, 2009, available at: <http://www.chcoc.gov/Transmittals/TransmittalDetails.aspx?TransmittalID=2525>. Agencies not using these resources must consult with OPM on the mandatory USERRA training they wish to provide. In addition, OPM is working with the Office of the Special Counsel (OSC) to include OSC’s training as an option that agencies can use to satisfy the mandatory training requirement.
- In addition to the mandatory USERRA training, OPM suggests agencies provide “event-based” or “just in time” training to covered employees. For example, when an agency is aware that one of its employees is being demobilized from uniformed service, that agency could provide focused training to affected staff on USERRA return-to-duty rights and obligations, time frames, etc. (i.e., the USERRA provisions that impact the imminent event – in this case reintegration of uniformed services personnel to the agency). OPM will work with the Chief Human Capital Officer (CHCO) and Chief Learning Officer (CLO) Councils to ensure that mandatory USERRA training continues to meet the needs of the Federal Government in complying with USERRA.
- In addition to the mandatory training described above, agencies should require USERRA training for their uniformed employees who are eligible for active duty activation.

Improved Data Collection Procedures

The July 19, 2012, Presidential Memorandum (PM) directs agencies to take steps to ensure robust compliance across the Federal Government with USERRA’s employment and reemployment protections. Section 2(d) of the PM directs the OPM and the Department of Defense to work together to improve data-collection procedures to help better track overall uniformed service member employment data, including Guard and Reserve members. However, all Federal agencies are responsible for ensuring the integrity of the employment data reported to the OPM. To facilitate the reliability of this information, OPM provides instructions for processing USERRA status changes in its *Guide to Processing Personnel Actions*, and agencies are expected to follow that issued guidance. When an employee is absent (whether in pay or nonpay status) in order to perform duty with the uniformed services and has reemployment rights under the USERRA, such a Federal employee is placed in the appropriate status and the agency is further instructed to:

- Provide the employee with information about any applicable restoration rights after service is completed and explain those rights or refer the employee to a specialist who can explain them. (See USERRA, as codified in 38 U.S. Code chapter 43 and regulated in 5 CFR part 353.)

- If applicable, ask the employee to state in writing whether unused annual leave should be paid in a lump sum or held until the employee returns. (See 5 U.S. Code 5552 and 5 CFR 550.1203(c).)
- If the employee called to active duty is a member of the Reserve or National Guard, work with the employee to determine if he or she is covered by the reservist differential provision in 5 U.S. Code 5538 and, if he or she is covered, provide information about the program.

More specifically, and to further assist agencies in reporting accurate data, in March of 2010 OPM reworked its PAY STATUS data element to PAY STATUS/USERRA STATUS and added the following codes and definitions found in the Guide to Data Standards (GDS). Agencies are instructed to use these codes:

- *U: USERRA Status/Not Qualifying for Reservist Differential.* Employee is absent from civilian position to perform service in the uniformed services and has reemployment rights under USERRA, but employee's service is not qualifying under the reservist differential provision in 5 U.S.C. 5538 or a similar reservist differential provision under another authority. Employee may be in nonpay status or pay status (through use of paid leave or other paid time off). Employee is placed in USERRA status through use of nature of action code 473 and legal authority code Q3K.
- *Q: USERRA Status/Qualifying for Reservist Differential.* Employee has USERRA status, and the service is qualifying under the reservist differential provision in 5 U.S.C. 5538 or a similar reservist differential provision under another authority (whether or not employee is actually entitled to a reservist differential payment). Employee may be in nonpay status or pay status (through use of paid leave or other paid time off). Employee is placed in USERRA status through use of nature of action code 473 and legal authority codes Q3K and QRD (or, if QRD does not apply, an agency-specific legal authority code).

OPM strongly encourages agencies to visit the GDS periodically at http://www.opm.gov/feddata/GDS/GDS_A09.pdf for updates to these codes.

New USERRA Metrics

The July 19, 2012, Presidential Memorandum directs OPM to develop appropriate metrics to measure implementation of the Memorandum. How well the Federal Government is performing in these areas will be informed by two key metrics:

- The number of USERRA claims filed against Federal executive agencies with the Department of Labor (DOL) and Office of Special Counsel (OSC) in each fiscal year; the number of those claims which have merit, based on standards established by the DOL and the OSC; and the number of claims as to which an agency was ultimately held to be liable, pursuant to a final decision by an appropriate adjudicative body (this adjudicated claims number may also reflect claims that were filed independently with the Merit Systems

Protection Board and not first with DOL/OSC, and those claims will be so identified). Agencies will receive their specific results from DOL at the end of each fiscal year.

- The number and percentage of Federal employees subject to the mandatory OPM-approved USERRA training requirement who received such training. Agencies will provide their data to OPM by September 30th each year.

OPM will use the results of these metrics to work with the USERRA Working Group to further develop guidance to support robust compliance and to improve training.

Guidance and Tools

The Presidential Memorandum discusses the need for uniformed service members “to be reintegrated as quickly and efficiently as possible when they return to civilian life.” This statement recognizes the cycle of transition that comes with a leave of absence from the Federal workplace to serve the nation and the subsequent return to the workplace.

Several Federal agencies and private companies take a systemic approach to reintegrating uniformed service members, keying in on strategies for managing the workload while the employee is deployed, communicating with the employee while deployed so he/she keeps abreast of the activities of the office, and utilizing the skills the employee developed while deployed when he/she returns to the office. These strategies and others are often modeled within a lifecycle of strategies—pre-deployment, deployment, and post-deployment.

Pre-Deployment

The first stage of reintegration should take place well before an individual performs uniformed service. An agency should assess its workforce and identify employees who may be likely to perform uniformed service. For example, an agency is likely aware of which employees have an obligation to the military that may result in active duty activation at some point during the employee’s tenure. Once an agency has identified these employees, the following strategies can be pursued:

- Create an engagement structure within the agency that builds a collaborative approach to deployment by employees, team members, and management officials by:
 - Developing continuity plans to ensure smooth transition of duties, responsibilities, contacts, information, data, etc., from deployed employees to other members of the office;
 - Ensuring the deployed individual, human resources professionals, managers, coworkers, and other appropriate staff are educated and trained on the requirements of USERRA;

- Formulating a “continuous engagement” plan so deployed employees keep abreast of the major activities of the office/agency while deployed. The method (e.g., phone calls, email, videoconferencing, mail) and frequency (e.g., weekly, monthly, quarterly) of communicating may be determined prior to deployment and adjusted as necessary;
- Creating checklists for the employee and management outlining specific roles and responsibilities that each will follow in the event of activation;
- Identifying employees who may have a spouse or domestic partner (different-sex or same-sex), or other family members who could be deployed to ensure support is provided as appropriate; and
- Establishing a network of similarly deployed individuals and other employees who have gone through mobilizations and can lend support to deployed employees before, during, and after their deployment.

During Deployment

During the deployment stage, the deployed employee’s primary focus is on his/her military mission and service. However, continuous engagement (when practical) by the agency reinforces to the deployed employee his/her importance to the office and may provide an efficient return after deployment. Once the deployed employee has been activated, management and the employee should review the checklists to determine if all information is still accurate and relevant. An agency should consider the following strategies for this stage of the cycle:

- Ensure accurate and relevant checklists are in place that reinforce the agency’s commitment to the mobilized employee by:
 - Securing personal items while gone or storing items until return; and
 - Providing access/connectivity to agency resources such as e-mail, job postings, newsletters, and training opportunities, where practical.
- Implement the “continuous engagement” plan so the deployed employee keeps abreast of agency news, activities, and information to ensure a transparent return to the agency.
- Where feasible, provide training opportunities to the deployed employee so his/her skills are maintained and further developed.

Post-Deployment

The post-deployment stage can be a time of stress for the returning employee and the agency. Successful agencies recognize this and plan for their employees’ return. Strategies an agency should consider for successful reintegration of its employees are:

- Establish a formal re-boarding process to ensure the employee’s successful return to the agency by:

- Developing a reintegration checklist of actions to be taken such as access to building, receiving new ID cards, restoration of appropriate information technology services;
 - Hosting “Welcome Back” celebrations and acknowledgements that are supported and attended by agency leadership;
 - Allowing the returning employee an opportunity to discuss his/her deployment with his co-workers so they gain a better appreciation for what he/she did while deployed;
 - Creating a reintegration team that includes a network of other employees who have performed uniformed service to assist with reintegration by providing the returning employee an empathetic ear, updates on organizational changes, mentoring, etc; and
 - Establishing procedures for follow-up within 6 months of reintegration to include reintegration or exit interviews.
- Accelerate the returning employee’s performance by:
 - Communicating the performance expectations of the employee within the first 30 days of his/her return;
 - Articulating the alignment of the employee’s work with the mission and strategic priorities of the organization;
 - Identifying any new skill-sets the employee acquired while deployed and utilizing those skills so that the employee has career advancement opportunities and the agency benefits from those acquired skills; and
 - Establishing procedures for follow-up each quarter to determine how well the employee is performing and coping in the workforce.

OPM, the White House USERRA Working Group, and the Council on Veterans Employment will continue identifying strategies for reintegration of employees who are deployed and will work together to develop and implement a Reintegration Framework for Governmentwide use in the future.

Strengthening Stakeholder Relationships

Stakeholder relationships are strengthened by collaboration, information, and communication. A strategy to consider for strengthening stakeholder relationships is:

- Formulate an engagement plan with stakeholders by:
 - Soliciting input and providing information to agency employees and their family members;
 - Creating affinity groups for employees who perform uniformed service within the agency;

- Establishing partnerships with veterans service organizations; and
- Collaborating with Government entities involved in veteran issues such as the Department of Veterans Affairs, DOL-VETS, OPM, etc.
- Encourage agency managers to engage military family support groups before, during, and after deployment of their service member employees. Interaction with these groups can bring new perspectives and insights into the needs of the service member/worker.

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT



Governmentwide Veterans Recruitment and Employment Strategic Plan FY 2014 – FY 2017

FEDSHIREVETS

America's Veteran - Valued ★ Experienced ★ Trained

April 2014

a New Day for Federal Service

Introduction

On November 9, 2009, President Barack Obama launched the Veterans Employment Initiative (VEI) with Executive Order 13518. The order established the Council on Veterans Employment (hereafter called the Council) to advise and assist the President and the Director of the U.S. Office of Personnel Management (OPM) in coordinating a Government-wide effort to increase the number of Veterans employed by the Federal Government. Additionally, the Council would serve as a national forum to promote Veterans' employment opportunities in the executive branch. The Council is Co-Chaired by the Secretaries of the Department of Veterans Affairs and the Department of Labor with the Director of OPM serving as the Vice Chair. Twenty-four agencies are represented on the Council.

Over four years ago, the Council published the first Government-wide Veterans Recruitment and Employment Strategic Plan. This Plan, which covered the period FY 2010 through FY 2012, provided a comprehensive approach to tackle barriers affecting Veteran employment by focusing on four key areas: leadership commitment, skills development and employment, marketing; and information dissemination on Federal employment for Veterans.

Through the implementation of this Plan, the Council:

- Adopted a Hiring Percentage Model for Veteran hiring among Federal agencies. This tiered model helped an agency set a future hiring goal based on the current percentage of Veterans hired;
- Created the Vets to Feds (V2F) Career Development Program for student Veteran trainees in mission critical occupations such as Contracting and IT;
- Developed and launched the Feds Hire Vets Website and associated social media sites to serve as the principal portal on Federal employment information for Veterans, transitioning service members and their families, hiring managers, and HR practitioners;
- Devised a Government-wide marketing campaign on the value of our Veterans and provided marketing toolkits to Federal agencies;
- Provided web-based training modules on Veteran Employment for agencies to train their HR professionals and hiring managers.

Since the inception of the VEI, the Federal Government has seen a steady increase in the percentage of Veterans hired.

In Fiscal Year (FY) 2012, we were extremely pleased to announce that the Executive Branch of Government hired the highest percentage of veterans in over 20 years, surpassing the previous high set in FY 2011.

The Government hired approximately 195,000 new employees in FY 2012 as compared to approximately 230,000 new employees in FY 2011 -- a reduction of over 34,000 total hires. Of those 195,000 FY 2012 hires, approximately 56,000 were veterans, equaling 28.9 percent of total hires. This is a 4.9 percentage point increase over the FY 2009 baseline of 24.0 percent and approximately 0.6 percentage points higher than the 28.3 percent realized in FY 2011.

The FY 2014 – FY 2017 Government-wide Veterans Recruitment and Employment Strategic Plan continues to build upon the foundation established by the first Plan. Besides advancing actions to improve employment opportunities for Veterans, this Plan introduces an emphasis on the retention of Veterans which is reflected in the modified mission statement. The Council will also focus on the reintegration of our Federal colleagues who are deployable Reservists or National Guardsmen. To help shape this document and its thrust, valuable input was incorporated from senior Federal leadership from across Government, Veterans, transitioning service members, Veteran Service Organizations, and other activities.

Key actions highlight the need to:

- Increase the collaborative effort between agencies to better leverage tools, processes, and activities to recruit, hire, and retain Veterans in order to optimally use their leadership, skills, training, and experience;
- Improve the awareness of the VEI, its goals, and associated activities among Federal agencies and their components outside the Washington DC area;
- Better align the VEI with other efforts such as diversity and inclusion, the Disabled Veterans Affirmative Action Program (DVAAP), and Joining Forces to leverage limited resources while benefitting from an integrated approach to assist Veterans and their family members seeking employment;
- Perform better workforce data analysis to strengthen Federal agency workforce planning in support of agency efforts to hire and retain Veterans;

- Oversee the creation and implementation of a Reintegration Framework for agency use to provide smooth and seamless support to Federal employees who are reservists and National Guardsmen before, during, and post deployment; and
- Expand Council governance structure to create standing, task oriented sub-committees to review and assess current and emerging issues such as strategic alliances, Veteran hiring models, Uniformed Services Employment and Reemployment Rights Act (USERRA) guidance, retention strategies, and Transition Assistance Program (TAP) connectivity.

In the original plan, there were four focus areas: Leadership Commitment, Skills Development and Employment, Marketing Veterans Employment, and Information Gateway. Based on a new emphasis associated with the retention and reintegration of Veterans, the new Strategic Plan emphasizes five focus areas by separating Skills Development and Employment into two separate entities. Therefore, the five focus areas are: 1) Leadership Commitment; 2) Skills Development; 3) Employment; 4) Marketing, and 5) Information Gateway.

The Council on Veterans Employment reaffirms its commitment to the employment of our Nation's Veterans through this strategic plan. Council members will continue to ensure Federal agencies honor the intent of EO 13518, the VOW To Hire Heroes ACT, and the Presidential Memorandum on USERRA Protections.

Interagency Council on Veterans Employment
April 2014

07/22/2014



The Director

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

MEMORANDUM FOR CHIEF HUMAN CAPITAL OFFICERS

From: Katherine Archuleta
Director

Subject: Release of OPM's Online Course: "A Roadmap to Success: Hiring, Retaining and Including People with Disabilities"

On July 26, 2010, President Obama issued Executive Order (E.O.) 13548 on *Increasing Federal Employment of Individuals with Disabilities*, to mark the historic 20th anniversary of the signing of the Americans with Disabilities Act (ADA). E.O. 13548 says that the Federal Government, as the Nation's largest employer, must become a model for the employment of individuals with disabilities. I applaud my fellow Federal employees for the great strides we have made building an inclusive workforce that draws on the talents of all segments of society.

In continued support of E.O. 13548, OPM, in consultation with partner agencies, has developed an online course entitled, "[A Roadmap to Success: Hiring, Retaining and Including People with Disabilities](#)."

This course will provide Federal employees with basic information and resources to successfully hire, retain, and advance employees with disabilities. OPM is making this course available to agencies at no cost on [HR University](#). We believe it will benefit all Federal employees. In accordance with E.O. 13548, this training should be considered required training for human resources personnel and hiring managers.

If you have any questions or need additional information, please contact OPM's Office of Diversity and Inclusion at disabilityemployment@opm.gov.

cc: Human Resources, Equal Employment Opportunity, and Diversity and Inclusion Directors

10/14/2014



The Director

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

MEMORANDUM FOR CHIEF HUMAN CAPITAL OFFICERS

From: Katherine Archuleta
Director

Subject: Governmentwide Guidance to Ensure Fair Employment Opportunities for Applicants Who Are Unemployed or Facing Financial Difficulty Through No Fault of Their Own

The Federal Government is committed to recruiting and retaining talented individuals drawn from all segments of our society. On January 31, 2014, President Obama issued a memorandum titled, [Enhancing Safeguards to Prevent the Undue Denial of Federal Employment Opportunities to the Unemployed and Those Facing Financial Difficulty Through No Fault of Their Own](#). As directed in the President's memorandum, in April 2014, agencies reviewed their recruiting and hiring practices to identify and address any processes that intentionally or inadvertently place these applicants at an undue disadvantage when applying for Federal employment and reported the results to the U.S. Office of Personnel Management (OPM). As further directed, OPM is hereby providing guidance to assist agencies with implementation of the memorandum.

Applicants should not face undue obstacles to Federal employment because they are unemployed or face financial difficulties through no fault of their own. The Presidential memorandum directs Federal agencies to take steps to ensure fair treatment of all applicants, as well as Federal employees, throughout the recruiting and hiring process. Specifically, the memorandum states that: "(a) Agencies shall not make an unfavorable determination with respect to the suitability, fitness, or qualifications of an applicant for Federal employment because that applicant: (i) is or was unemployed; or (ii) has experienced or is experiencing financial difficulty through no fault of the applicant, if the applicant has undertaken a good-faith effort to meet his or her financial obligations." The memorandum also directs that, "(b) Consistent with existing law, agencies shall not remove, suspend, or demote a current Federal employee if the basis of the action is that the employee has experienced, or is experiencing, financial difficulty through no fault of the employee, and the employee has undertaken a

good-faith effort to meet his or her financial obligations.”

Based on the President’s memorandum, the following guidance is provided to assist agencies making suitability/fitness and other employment decisions:

- An unfavorable employment decision may not be based on periods of unemployment standing alone.
- When financial delinquencies are present and are being considered, selecting officials and/or personnel responsible for suitability/fitness adjudications should always consider whether the non-payment of debt was deliberate or through no fault of the individual. Even where debt does not fall into the “no fault” category, any additional pertinent circumstances surrounding an individual’s financial indebtedness should be considered, such as the recency of when the debt was incurred, the nature and seriousness of the delinquency, contributing societal conditions, and whether there is intent to pay the debt or establish a realistic plan to pay the debt. In most instances, agencies should not be considering credit history except as it has the potential to implicate an honesty issue. An individual’s deliberate financial irresponsibility and unwillingness to satisfy debts or failure to admit financial delinquencies may raise an honesty concern. However, no such suitability or fitness concern exists when the financial issues have been admitted and were incurred through no fault of the individual. Below are a few examples of situations involving periods of unemployment or financial indebtedness and how they would be considered in the selection or suitability processes:

- o An individual is laid off from his previous job in a rapidly changing field, e.g., scientific or professional, and has been unemployed for 53 weeks. He is seeking a Federal position in the same field, which requires continuing education. The agency may consider his experience and whether he has participated in continuing education during his period of unemployment, but should also consider whether his skills can be made current with continuing education once on the job.

- o An individual who was laid off from a previous job falls behind on her student loans and utility bills, while making a good faith effort to obtain new employment and make arrangements to pay bills. She would not be unsuitable for Federal employment just because of her unemployed status and her financial difficulties.

- o An individual suffers a serious workplace injury that leaves him unable to work for a period of time, and he loses his job. He qualifies for workers’ compensation, but those benefits are not sufficient for him to meet all of his expenses, and he falls behind on his mortgage. His period of unemployment, standing alone, would not be a relevant consideration for selection. In addition, his financial difficulty would not make him unsuitable for Federal employment.

- o An individual incurred significant credit card debt as a college student while attempting to support herself and work her way through college. When she was laid off from her job due

to downsizing, she fell behind in her payments. Upon graduation, she gained employment in her field and has established a realistic payment plan for satisfying her debt. She would not be unsuitable for Federal employment just because she has significant credit card debt. Her establishment of a realistic payment plan would be considered a relevant factor.

Strategies for Ensuring Fair Treatment During the Hiring Process

One of the ways that Federal agencies can ensure fair treatment for applicants who have experienced periods of unemployment and/or financial difficulty is to avoid unnecessary screening mechanisms, especially at early stages of the hiring process, before a candidate's qualifications have been fully assessed.

- As a threshold matter, job announcements generally should not include a requirement that applicants be currently or recently employed, which discourages unemployed workers. In addition, rating criteria for job announcements should generally not address recency of employment experience.
- Agencies should ensure that the Position Designation Tool (available at: <http://www.opm.gov/investigations/background-investigations/position-designation-tool>) is used correctly, and that each position is appropriately designated. Improper designations result in either unwarranted expenditure of resources or increased risk to the Government and the public, depending upon whether the designation is too high or too low. In the context of the Presidential memorandum, it is also worth remembering that designating a position at a level that is too high may also have the unintended consequence of discouraging an individual who has experienced financial difficulties from applying, in the mistaken belief that these difficulties will automatically disqualify him or her from appointment. The important thing is to follow the official guidance that has been provided and designate appropriately in accordance with that guidance. OPM monitors agencies' position designations and may ask them to re-evaluate if the agency is not using the Tool correctly.
- As a best practice, agencies should delay use of the [OF 306](#), which asks about delinquency on Federal debt, and should delay any credit investigation as part of a suitability determination, until after the candidate's experience and qualifications have been considered and the individual is either a final candidate or has already received a conditional job offer.
- Agencies should train hiring officials and human resources professionals to focus on applicants' qualifications and not on gaps in employment. OPM is providing agencies with model training on how to conduct interviews and review applicants' employment history and other factors when making hiring decisions in accordance with the policy in the President's memorandum. (See attachment for guidance to include in your agency's supervisory training.) Within 180 days from this memorandum, all hiring officials and human resources professionals should be trained in accordance with this memorandum.

Strategies for Recruitment

OPM is providing below a list of existing strategies and some new strategies to assist agencies with their recruiting efforts to attract diverse applicant pools, including unemployed workers and those facing financial difficulty.

- Share USAJOBS Job Opportunity Announcements (JOA) through niche job boards (e.g., [American Job Center Network](#)), social media outlets, and other networks.
- Establish and develop relationships with state employment offices (e.g., American Job Center Network), local [Workforce Investment Boards](#), and non-governmental organizations that provide employment and workforce development services to the unemployed and/or disadvantaged job seekers. According to a White House survey of businesses that signed onto the [White House Best Practices on Recruiting and Hiring the Unemployed](#), the most effective best practice in generating such new hires is engaging with such local and regional entities that can connect employers with workers that have relevant skills and experience.
- Where feasible, encourage agency hiring officials to visit and develop relationships with community organizations serving the long-term unemployed, such as networking groups and job clubs. A recent report by the Department of Labor Chief Evaluation Office found job clubs based at public libraries, religious organizations, and American Job Centers engage a large proportion of long-term unemployed dislocated workers. The Department of Labor maintains a directory of these groups at www.dol.gov/jobclubs.
- Consider non-traditional students in your campus recruiting efforts because some long-term unemployed individuals may have returned to college to update their skills.
- Leverage OPM's tools to educate job seekers from diverse communities on career opportunities in the Federal Government; how to find and apply for Federal jobs; how to write a resume; and the Federal hiring process.
 - o The [Recruitment Policy](#) page on HR University (HRU), <http://www.hru.gov/>, provides tools, guidance, presentations, and videos that agencies can use to reach out to applicants, including the long-term unemployed.
- Use existing hiring authorities and non-competitive hiring authorities to help fill mission critical jobs.
- In addition, in furtherance of the President's objectives, OPM directs agencies to include the following standardized language in each JOA under the "Other Information" Tab of USAJOBS. You may provide this information as a link.

"It is the policy of the Government not to deny employment simply because an individual has been unemployed or has had financial difficulties that have arisen through no fault of the individual. Information about an individual's employment experience will be used only to determine the person's qualifications and to assess his or her relative level of knowledge, skills, and abilities. Although an individual's personal conduct may be relevant in any

employment decision, including conduct during periods of unemployment or evidence of dishonesty in handling financial matters, financial difficulty that has arisen through no fault of the individual will generally not itself be the basis of an unfavorable suitability or fitness determination.”

Where possible, an agency should also indicate whether the position to be filled is one where the requisite level of investigation automatically requires a credit check after initial job qualifications have been met, or one where the requisite level of investigation does not automatically require a credit check (with the understanding that even where a credit check is not automatically required, it may later be required if the initial investigation surfaces a potential issue).

Link to the attached Mythbuster on your JOA to inform applicants of the above policy.

Lastly, OPM reminds agencies of their responsibilities related to the Fair Credit Reporting Act (FCRA) as it relates to the suitability process. Please see the attached updated FCRA Federal Investigations Notice, which describes agencies’ obligations with respect to credit reports when they are used during the suitability adjudication process under title 5, Code of Federal Regulations, part 731. Please share this Notice with agency security and suitability process stakeholders.

If you have questions, please contact Kimberly Holden, Employee Services Deputy Associate Director by email at kimberly.holden@opm.gov or Lisa Loss, Federal Investigative Services Deputy Associate Director by email at lisa.loss@opm.gov. You may also send your questions to outreach@opm.gov.

cc: Human Resources Directors