

[SECTION B. PROMOTION AND INTERNAL PLACEMENT OF HYBRID TITLE 38 EMPLOYEES

1. GENERAL

a. This section contains instructions and procedures governing the promotion of employees in hybrid title 38 occupations who are appointed under sections 7401(3) and 7405 (a)(1)(B) of title 38, United States Code. Promotion is advancement to a higher grade level and recognizes that an employee is providing a higher level of service to VA.

b. The promotion system shall provide advancement opportunities for employees, predicated upon the recognition of the quality of service rendered, additional experience and professional attainment as determined by an examination of the employee's individual record.

c. To meet the criteria for promotion, the individual must meet the criteria for the next higher grade level in the applicable VA qualification standard. Examination of the individual's total record must reveal evidence that the contribution to VA medical service is of sufficient value to warrant promotion. Potential for continuously greater contribution is also a prerequisite. Reviews and recommendations of supervisors and professional standards boards will be sufficient to ensure that promotion is fully merited and not recommended based on meeting administrative requirements alone.

d. Promotion actions will be taken without regard to race, color, religion, sex, national origin, disability, age, sexual orientation, or status as a parent, or any other non-merit factor, and shall be based solely on job-related criteria.

e. Promotion actions will conform to the restrictions governing the employment of relatives. (See VA Handbook 5025, Legal.)

f. Employees may also be advanced in steps within a grade. (For Special Advancements for Achievement and Special Advancements for Performance see Handbook 5017, Employee Recognition and Awards)

2. PERSONS AUTHORIZED TO ACT ON RECOMMENDATIONS OF BOARDS FOR PROMOTIONS

(See appendix III-K, this part.)

3. PROFESSIONAL STANDARDS BOARDS

See part II, chapter 3, section C, this handbook, for VA policy covering Professional Standards Boards. See Appendix II-O, part II, this handbook, Organizational Location of Hybrid Title 38 Professional Standards Boards. See Appendix II-P, part II, this handbook, Procedures for Selecting Hybrid Title 38 Professional Standards Boards Members. See Appendix III-P, this part, Procedures for Reporting Questionable Behavior and Judgment Exhibited by Hybrid Title 38 Professional Standards Boards Members.

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(1) A current performance rating of “Satisfactory” or higher.

(2) The experience, education, and performance requirements set forth in VA Qualification Standards. Employees must meet the same grade requirements, including the specified demonstrated accomplishments, as for appointment. Any deviation or exception to these requirements will be limited to those specified in the appropriate qualification standard. (See part II, appendix G).

b. Promotions Based on Additional Experience and/or Education. Promotions based solely on additional experience acquired by the employee shall be limited to advancements of one grade or grade interval at a time. If an employee has attained a higher level of education that, when combined with their additional experience, is qualifying for a grade higher than the next grade or grade interval, the employee may be promoted to whatever grade in the qualification standard the additional education warrants.

c. Processing Procedures (See appendix III-M, this part)

5. PROMOTION CONSIDERATION

a. Full-time, part-time, and intermittent employees shall be considered periodically for promotion in their current occupation. Eligibility for such promotion considerations shall be based upon fully meeting prescribed administrative requirements.

b. Notification of Eligibility. Approximately 60 days prior to the date the employee meets the required period for promotion consideration, the health care facility will receive from the Austin Automation Center (AAC) a VA Form 97, Notice of Pending Personnel Action, in duplicate, identifying the employee and stating that the employee meets the requirements for promotion [consideration] as of the date specified. In addition, the VA Form 97 will indicate if there is a satisfactory performance rating on record. Human Resources Management Officers are responsible for assuring that appropriate officials are notified that the employee is eligible for promotion consideration. The employee shall also be notified of the eligibility and be given 30 days to submit to their supervisor a self-assessment of their qualifications for promotion consideration. Employees may also notify their supervisor in writing that they are declining to submit a self-assessment during this 30 day period. If this is done, the supervisor may proceed with a recommendation. Human Resources Management Officers are to destroy the VA Form 97 in the circumstances described in paragraph 5d(3) below.

c. Promotion to Grades at or Below Full Performance Level. Promotions to grades at or below the full performance level (see Appendix III-O, this part) will be based on the recommendation of the immediate supervisor and approved by the next higher level supervisory official. Upon receipt of the employee's self-assessment, the supervisor will make a recommendation on promotion that is to be acted upon by the approving official within 30 days of the self-assessment being received.

(1) Employees who have demonstrated the capability to successfully perform at the next higher grade level will be recommended for promotion. Promotions will become effective on the first day of the first full pay period following approval by the second level supervisor. In no case will the promotion be effected later than the first day of the first full pay period commencing 60 days after the employee's anniversary date. (See paragraph 7.a.(1) below)

(2) Employees who have not demonstrated such capability will be informed in writing by the supervisor that they are not being recommended for promotion. The written notice will state the reason(s) why the employee does not meet the criteria for promotion. The supervisor may recommend the employee for promotion at a later date if it is determined that the employee has met the appropriate criteria. If not promoted during the intervening period, the employee is entitled to promotion consideration on the next anniversary date of grade. Employees who are not promoted may request promotion reconsideration under paragraph 6d(1) below.

d. Promotion to Grades above the Full Performance Level. Employees who are eligible for promotion [consideration] to a grade that requires a combination of personal qualifications and assignment characteristics are to be considered for promotion to such grades on the first anniversary date of their last promotion, provided they meet the administrative requirements. In addition, employees who are selected for supervisory or managerial assignments that warrant consideration for a higher grade and for assignments based on complexity will be considered for promotion on a date other than the anniversary date of last promotion.

(1) If after reviewing the employee's self-assessment, if submitted, and other relevant material, the appropriate management official (e.g., service chief) determines that the assignment does not meet the qualification standard for a higher grade, that official shall document the reasons for this determination in writing and provide a copy of the determination to the employee. Employees who do not agree with the determination may request promotion reconsideration under paragraph 6.d.(2) below.

(2) If the appropriate management official believes the assignment meets the qualification standard requirements for promotion, a Board Action is to be prepared and submitted, along with all relevant information to the Professional Standards Board for consideration within 30 days. If applicable, the employee will be given a copy of the supervisor's comments relating to the self-assessment. The Professional Standards Board will have 30 calendar days to forward its recommendation to the approving official, who will have 30 days to make a decision. Promotions will become effective on the first day of the first full pay period following approval by the approving official. In no case will the promotion be effected later than the first day of the first full pay period commencing 120 days after the employee's anniversary date. (See paragraph 7.a.(1) below)

(3) If, under paragraph (1) or (2) above, the appropriate management official or the Professional Standards Board does not recommend promotion, or the approving official does not approve the employee's promotion, the employee will no longer receive annual promotion consideration. The appropriate management official may recommend such employees for promotion at any time in the future provided the employees' duties and responsibilities change to the point that the criteria for

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promotion to the next grade may be warranted. Employees may request promotion consideration by the appropriate management official on subsequent anniversary dates if their duties have changed since they were last considered and the employee believes that these changes meet the criteria in the qualification standard for a higher grade.

6. PROMOTION RECONSIDERATION AND REVIEW

a. **Coverage.** This paragraph applies to hybrids appointed under 38 U.S.C. 7401(3) or 7405(a)(1)(B).

b. **Notice of Decision.** Employees are to be advised by their supervisors in writing of any decision not to promote them, of the reason(s) for the decision, of their right to request reconsideration, and that reconsideration must be preceded by an informal discussion with their supervisor.

c. **Informal Discussion.** Employees must discuss their dissatisfaction with their immediate supervisor prior to submitting a request for reconsideration under paragraph d below.

d. Reconsideration Requests**(1) To Grades at or Below the Full Performance Level**

(a) If promotion to a grade at or below the full performance level (see Appendix III-O, this part) is involved, the employee may, within 30 days of being notified of the decision, submit a written request through the immediate supervisor to the second level supervisor. The employee's written request for reconsideration must indicate when the informal discussion was held with the immediate supervisor and cite the specific reason(s) why the employee believes the decision was not proper. The approving official or designee may extend the 30-day period at the written request of the employee if the employee is unable to submit the information for reasons beyond the employee's control.

(b) Second level supervisors are to review the employee's request within 30 days and determine whether to promote the employee. If the second level supervisor determines that a promotion is not warranted, that supervisor will provide the reasons for this decision to the employee in writing.

(c) If the employee is not satisfied with the explanation of the determination to not promote, the employee can request within 30 days to have the determination reviewed by the next higher level board. The employee's request for reconsideration and the supervisor's explanation will be forwarded to the higher level board within 30 days.

(d) The higher level board will make a recommendation within 30 days to the appropriate approving official, who will make a final decision within 30 days

(e) If the promotion is approved, the employee is to be promoted on the first day of the first pay period [following a decision by the approving official. In no case will the promotion be effected later than the first day of the first full pay period commencing 180 days after the employee submits a written request for reconsideration, unless the employee requested an extension to the 30-day period to submit a

written request for reconsideration. In such cases, the number of additional days taken by the employee to submit a request will be added to the 180-day time limit.] If the promotion is denied, the employee will be provided with a copy of the board action. (See paragraph 7.a.(1) below)

(2) For Promotions to Grades Above The Full Performance Level

(a) An employee may submit a written request for reconsideration through the supervisor to the next higher level Professional Standards Board for review within 30 calendar days of the non-promotion decision. The approving official or designee may extend the 30-day period at the written request of the employee if the employee is unable to submit the information for reasons beyond the employee's control. The employee's written request for reconsideration must indicate when the informal discussion was held with the immediate supervisor and cite the specific reason(s) why the employee believes the decision was not proper. Supervisors are to review and comment on the employee's request in writing, and provide copies of those comments to the employee within 30 days.

(b) The appropriate Professional Standards Board will review the information submitted by the employee, along with the supervisor's comments, and make a recommendation to the approving official within 30 days. If the employee's request does not include the information specified in paragraph d.(1) above, the technical representative to the Professional Standards Board will return the request to the employee for completion. The employee has 30 calendar days from the date of receipt of the request to obtain the additional information and return it to the Professional Standards Board through the technical representative; however, the appropriate management official may extend the 30-day period if the employee is unable to submit the information for good cause shown. The 30-day period the Board has to make its recommendation may be extended up to the number of days it took the employee to provide the Board with the appropriate information. Upon completing its review, the Professional Standards Board is to forward its recommendation to the approving official for action under paragraph e. below.

e. **Action by Approving Authority.** Upon review of the reconsideration file, the approving official shall take one of the following actions within 30 days:

(1) Request any additional information needed to make a decision. This includes, but is not limited to, meeting with representatives of the Professional Standards Board, the employee, and/or the employee's supervisor prior to making a decision under paragraph (2) or (3) below.

(2) Approve the employee's promotion. Promotions will be made effective on the first day of the first full pay period following approval. In no case will the promotion be effected later than the first day of the first full pay period commencing 120 days after the employee submits a written request for reconsideration, unless the employee requested an extension of the 30-day period to submit a written request for reconsideration. In such cases the number of additional days taken by the employee to submit a request will be added to the 120-day time limit. (See paragraph 7.a.(1) below)

(3) Disapprove the promotion and notify the employee of the decision in writing.

f. **Coverage as Employee Grievance.** Requests for promotion reconsideration are excluded from

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the Agency Grievance Procedure. See VA Handbook 5021, Part IV, Chapter 3, paragraph 16. Promotion reconsideration is also excluded from the negotiated grievance procedure pursuant to 38 U.S.C. 7403(f)(1)(B).

7. EFFECTING ADVANCEMENT AND PROMOTION ACTIONS**a. Effective Date**

(1) The promotion will be made effective by the Human Resources Management Officer on the first day of the pay period following the date of approval of the promotion by the approving official, but in no case earlier than the date on which all administrative requirements are met. A promotion may also be made effective at a future date set by the approving authority that does not violate law or negotiated agreement when doing so would benefit the employee. Promotion recommendations and actions that are administratively delayed beyond the time limits specified in paragraphs 5 and 6 above will be made retroactive.

(2) If an employee becomes eligible for promotion while on LWOP for purposes for which they have a statutory entitlement to receive promotion consideration (e.g., military service, OWCP), no action will be taken until the employee returns to duty. If the employee on return to duty meets all of the requirements for promotion consideration, he or she will be considered for promotion as if he or she had been continuously employed in the position.

NOTE: *See chapter 6, this part, for effecting promotion actions upon return from military service.*

b. Disposition of Forms. On completion of the promotion action, or disapproval of promotion, the original VA Form 10-2543 and any accompanying documents will be filed in a separate envelope in the employee's personnel folder.

8. TEMPORARY PROMOTIONS

a. An employee may be temporarily promoted to a higher graded position where the grade of the position is based on the complexity of the assignment. The employee must meet the administrative and qualification requirements for promotion and such promotions are to be processed using the procedures in paragraph 5d above.

b. On expiration or termination of the assignment, the grade and salary of the employee will be adjusted in accordance with the provisions of VA Handbook 5007, Pay Administration. In applying the provisions of this handbook, the salary will be adjusted to the salary held previously, unless a higher rate is warranted by reason of periodic step increases. On assignment, the following statement will be placed in the "Remarks" item of the SF 50-B, Notification of Personnel Action: "Employee informed of conditions of temporary grade assignment."]

9. OTHER GRADE CHANGES**a. Change to Lower Grade**

(1) **General.** As provided by 38 U.S.C. 7403, where an employee's grade level and salary are based on both the nature of the assignment and the employee's personal qualifications, and the assignment is subsequently changed, the grade and salary may be adjusted as appropriate. Such action may be taken by the Under Secretary for Health or designee for Hybrid Title 38 employees in centralized positions and for all Hybrid Title 38 employees in assignments at GS-13 and above; and by the facility Director for all Hybrid Title 38 employees in noncentralized assignments below GS-13. The facility Director may delegate the authority to the Chief of Staff, Associate Director, Nurse Executive, Pharmacy Chief for occupations under their respective purview.

(2) **Hybrid Title 38 employees.** Employees appointed under authority of 38 U.S.C. 7401(3) and permanent part-time employees appointed under 38 U.S.C. 7405 (a)(1)(B) are entitled to the following grade and pay retention provisions.

(a) **Erroneously Graded Assignments.** If an employee's grade is based on both the nature of assignment and personal qualifications and the assignment does not meet the requirements for the employee's grade, the employee shall be eligible for grade and pay retention if the employee has been in grade for at least 1 year. If the employee has been in grade for less than 1 year, the employee shall be eligible for pay retention, and pay shall be set in accordance with 5 CFR, part 536.

(b) **Change in Assignment.** If the duties and responsibilities of an employee's assignment change sufficiently, either through gradual erosion or planned management action, so that it no longer warrants the grade level of the incumbent, the incumbent shall be eligible for grade and pay retention provided the incumbent has been in grade for at least 52 weeks. If the employee has been in grade for less than 52 weeks, the employee shall be eligible for pay retention, and pay shall be set in accordance with 5 CFR, part 536.

(c) **Assignment Change.** If an employee is voluntarily placed in a different assignment which does not warrant the employee's current grade level, the employee will not be eligible for grade retention. The employee's entitlement to pay retention will be determined in accordance with VA Handbook 5007, Pay Administration.

(d) **Assignment Change for Cause or at the Employee's Request.** If an employee is changed to an assignment which does not warrant the employee's current grade level for cause or at the employee's request, the employee is not eligible for grade or pay retention.

NOTE: *Directed transfers or reductions in grade approved under this paragraph will not be considered adverse actions under 38 U.S.C. 7461, provided they are not based on charges related to conduct or performance. The actions are, however, grievable under the provisions of VA Handbook 5021, (Employee/Management Relations).]*