



## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 211

### RIN 3206-AN47

### Veterans' Preference

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Office of Personnel Management (OPM) is issuing a final rule to implement a statutory change pertaining to veterans' preference. This change is made in response to the Gold Star Fathers Act of 2015. The Act broadens the category of individuals eligible for veterans' preference to provide that fathers of certain permanently disabled or deceased veterans shall be included with mothers of such veterans as preference eligibles for treatment in the civil service.

**DATES:** This rule will be effective [INSERT DATE 30 DAYS FROM PUBLICATION DATE].

**FOR FURTHER INFORMATION CONTACT:** Roseanna Ciarlante by telephone on (267) 932-8640, by fax at (202) 606-4430, by TTY at (202) 418-3134, or by email at [Roseanna.Ciarlante@opm.gov](mailto:Roseanna.Ciarlante@opm.gov).

### **SUPPLEMENTARY INFORMATION:**

On October 7, 2015, the Gold Star Fathers Act of 2015 (the "Act") was enacted as Public Law 114-62. The Act provides an amendment to the eligibility criteria for veterans' preference purposes by amending subparagraphs (F) and (G) to 5 U.S.C. 2108(3). The amendment provides that fathers of certain permanently disabled or deceased veterans shall be included with mothers

of such veterans as preference eligibles for treatment in the civil service. The Act also changes the requirements for parents of such veterans to qualify for this preference.

The Act replaces 5 U.S.C. 2108(3)(F) to state that the parent of an individual who lost his or her life under honorable conditions while serving in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955, is eligible for preference if the spouse of that parent is totally and permanently disabled; or that parent, when preference is claimed, is unmarried or, if married, legally separated from his or her spouse.

The Act also replaces 5 U.S.C. 2108(3)(G) to state that the parent of a service-connected permanently and totally disabled veteran is eligible for preference if the spouse of that parent is totally and permanently disabled; or that parent, when preference is claimed, is unmarried or, if married, legally separated from his or her spouse.

On December 27, 2016, OPM issued an interim rule at 81 FR 94909, amending 5 CFR 211.102(d) to state that a “preference eligible” is “a veteran, disabled veteran, sole survivor veteran, spouse, widow, widower, or parent who meets the definition of ‘preference eligible’ in 5 U.S.C. 2108.” The amendment replaced the word “mother” with the word “parent” to conform to the statutory definition.

### **Discussion of Comments**

During the 60-day comment period between December 27, 2016 and February 27, 2017, OPM received one comment from an individual. The individual expressed concern that absent oversight, agencies will use this change to (1) replace their older career employees with a non-career workforce, and (2) circumvent unspecified special hiring authorities. The commenter did not articulate how giving the fathers of certain permanently-disabled or deceased veterans the same rights as mothers would have these effects. Because the commenter’s concern is unclear and speculative, OPM cannot address it.

OPM acknowledges that oversight of veterans' preference is critical. OPM conducts regular reviews of veterans hiring across the Government to ensure that veterans are receiving the entitlements they have earned in the Federal hiring process. We have identified no systemic abuses or issues with veterans' preference or veterans hiring practices.

### **Regulatory Impact Analysis**

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of \$100 million or more in any one year. This rule was not designated as a "significant regulatory action," under Executive Order 12866 and was not reviewed by the Office of Management and Budget.

### **Reducing Regulation and Controlling Regulatory Costs**

This final rule is not an EO 13771 regulatory action because this rule is not significant under EO 12866.

### **Regulatory Flexibility Act**

The Office of Personnel Management certifies that this rule will not have a significant economic impact on a substantial number of small entities.

### **Unfunded Mandates Act of 1995**

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### **Congressional Review Act**

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

### **Paperwork Reduction Act of 1995**

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves a collection of information subject to the PRA – Standard Form (SF) 15, *Application for 10-Point Veteran Preference*, OMB No. 3206-0001. OPM is currently reinstating this expired collection with changes to include an expanded population. The systems of record notice for this collection is: OPM GOVT-1 (<https://www.opm.gov/information-management/privacy-policy/sorn/opm-sorn-govt-1-general-personnel-records.pdf>).

### **List of Subjects in 5 CFR Part 211**

Government employees, Veterans.

U.S. Office of Personnel Management

---

Alexys Stanley,  
Regulatory Affairs Analyst.

Accordingly, OPM amends part 211 of title 5, Code of Federal Regulations, as follows:

### **PART 211--VETERAN PREFERENCE**

1. The authority citation for part 211 continues to read as follows:

Authority: 5 U.S.C. 1302, 2108, 2108a.

2. In § 211.102, revise paragraph (d) introductory text to read as follows:

**§ 211.102 Definitions.**

\* \* \* \* \*

(d) Preference eligible means a veteran, disabled veteran, sole survivor veteran, spouse, widow, widower, or parent who meets the definition of “preference eligible” in 5 U.S.C. 2108.

\* \* \* \* \*

[FR Doc. 2018-26265 Filed: 12/6/2018 8:45 am; Publication Date: 12/7/2018]