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# **NONCOMPETITIVE APPOINTMENTS OF CERTAIN MILITARY SPOUSES**

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## **AUTHORITY OVERVIEW**

**APRIL 2022**

**US ARMY DCS, G-1**

# NONCOMPETITIVE APPOINTMENTS OF CERTAIN MILITARY SPOUSES

## AUTHORITY OVERVIEW

The authority to noncompetitively appoint certain Military Spouses has evolved since it was initially established. This overview provides information and facts regarding the authority, as well as frequently asked questions regarding the application of the authority.

### AUTHORITY HISTORY & EVOLUTION

#### **AUTHORITY ESTABLISHED (2008)**

On September 25, 2008 the President signed Executive Order 13473. The executive order is a policy of the United States to provide for the appropriately expedited recruitment and selection of spouses of members of the Armed Forces for appointment to positions in the competitive service of the Federal civil service as part of the effort of the United States to recruit and retain in military service, skilled and experienced members of the Armed Forces and to recognize and honor the service of such members injured, disabled, or killed in connection with their service. This authority does not convey preference; however, it does allow Military Spouses to apply for positions announced to internal candidates (i.e., current Federal employees), and to be appointed when they have no other appointing eligibility.

#### **AUTHORITY IMPLEMENTED (2009)**

On August 12, 2009, the Office of Personnel Management (OPM) published regulations implementing the noncompetitive hiring authority for certain Military Spouses to positions in the competitive service. The regulation implementing the authority was made effective September 11, 2009.

#### **AUTHORITY MODIFIED (2011)**

On August 31, 2011, OPM published regulations eliminating the 2-year eligibility limitation for noncompetitive appointment for spouses of certain deceased or 100 percent disabled veterans. OPM removed the restriction in order to provide spouses of certain deceased or 100 percent disabled veterans with unlimited eligibility for noncompetitive appointment. The regulation implementing this modification was made effective September 30, 2011.

#### **AUTHORITY MODIFIED (2013)**

On January 3, 2013, the National Defense Authorization Act (NDAA) for fiscal year 2013 (i.e., Public Law 112-239) modified the authority by amending part of Title 5 of the United States Code. Specifically, the NDAA amended the authority by establishing special rules which limit the number of appointments made under the authority citing; "A relocating spouse of a member of the Armed Forces may not receive more than 1 permanent appointment under this section for each time the spouse relocates," and "A spouse of a disabled or deceased member of the Armed Forces may not receive more than 1 permanent appointment under the authority."

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### **AUTHORITY MODIFIED (2016)**

On December 23, 2016, the NDAA for fiscal year 2017 (i.e., Public Law 114-328) modified the authority by amending part of Title 5 of the United States Code. Specifically, the NDAA amended the authority by removing the time limitation on appointment for relocating spouses citing, "A relocating spouse of a member of the Armed Forces remains eligible for noncompetitive appointment under this section for the duration of the spouse's relocation to the permanent duty station of the member."

### **AUTHORITY MODIFIED (2018)**

On August 13, 2018, the NDAA for fiscal year 2019 (i.e., Public Law 115-232) modified the authority by temporarily amending part of Title 5 of the United States Code. Specifically, the NDAA temporarily amended the authority by making any spouse of a military member on active duty eligible for noncompetitive appointment under the authority and eliminating geographic restrictions. OPM's regulations will revert to the permanent requirements following the sunset of the temporary amendments on August 13, 2023.

### **EXECUTIVE ORDER 13832 (2018)**

On May 29, 2018 the President signed Executive Order 13832 to enhance noncompetitive civil service appointments of Military Spouses. The order directed agencies to provide consideration (to the greatest extent possible consistent with hiring needs) in their competitive service Job Opportunity Announcements (JOAs) for candidates under the noncompetitive Military Spouse authority, in addition to any other hiring authority the JOA indicates the agency will consider.

### **AUTHORITY MODIFICATIONS CODIFIED (2021)**

On September 21, 2021, OPM published regulations modifying the provisions governing the hiring authority for certain Military Spouses to incorporate the provisions released in the FY13, FY17, and FY19 NDAA's as well as the enhancements outlined in Executive Order 13832. The regulation implementing the modifications was made effective October 21, 2021. Additional details regarding the temporary modifications to the authority are outlined within the Frequently Asked Questions.

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### DEPARTMENT OF DEFENSE GUIDANCE

#### USE OF NONCOMPETITIVE APPOINTING AUTHORITY IN FOREIGN AREAS

In accordance with Department of Defense (DoD) Instruction 1400.25 Volume 1232, it is DoD policy that all Family Members (to include Military Spouses) who lack personal competitive status (e.g., reinstatement eligibility) will be appointed into the Excepted Service using the Schedule A appointing authority established under Title 5 of the Code of Federal Regulations. The Schedule A appointing authority takes into account the unique status of Family Members and the significance of command sponsorship. Specifically, use of the Schedule A Family Member authority aligns with DoD's policy to limit foreign area employment of Family Members to no longer than 2 months following the transfer of the sponsor from the commuting area of his or her foreign duty station; 2 months beyond the separation of the appointee's sponsor; or any time beyond the time the employee ceases to be a family member. If the military sponsor departs the overseas area without his or her civilian employee Spouse, the Spouse would lose his or her automatic entitlement to command logistical support (e.g., car registration, commissary/PX privileges, ration cards, DoDDS schools, fuel coupons, etc.). Additionally, the Spouse would lose living quarters allowance (LQA) unless he or she could independently qualify for the benefit.

In contrast, the Noncompetitive Hiring Authority for Certain Military Spouses sets no limit to the amount of time the appointee may remain in the position if the military sponsor departs the overseas area.

### ARMY GUIDANCE

#### MEMORANDUM SUPPORTING EXECUTIVE ORDER 13832

On October 11, 2018, the Assistant G-1 for Civilian Personnel released a guidance memorandum to support the following requirements outlined in Executive Order 13832:

- 1) "To the greatest extent possible consistent with hiring needs, agencies shall, when filling vacant positions in the competitive service, indicate in job opportunity announcements (JOAs) that they will consider candidates under the Military Spouse hiring authority in addition to candidates identified on the competitive or merit promotion certificate for the position as well as those candidates identified through any other hiring authority a JOA indicates an agency will consider."
- 2) "Agencies shall actively advertise and promote the Military Spouse hiring authority and actively solicit applications from Military Spouses for posted and other agency positions (including through USAJOBS)."

Army's memo requires hiring managers to consider Military Spouses eligible under Executive Order 13473 when posting job opportunity announcements for vacancies within the Continental United States (CONUS), when such announcements are opened to applicants outside of the Department of Defense (DoD). The memo also strongly encourages hiring managers to consider Military Spouses eligible under Executive Order 13473 when posting job opportunity announcements for vacancies within CONUS, when such announcements are limited to applicants within DoD.

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### FREQUENTLY ASKED QUESTIONS

- **Does the noncompetitive hiring authority confer hiring preference or selection priority to Military Spouses?**

No. This appointing authority only allows Military Spouses to apply for positions under internal merit promotion procedures with other internal candidates, and to be appointed (if selected) when they have no other appointing eligibility.

- **Are Military Spouses required to meet the qualification requirements of the position for which they seek consideration under the noncompetitive authority?**

Yes. Military Spouses eligible under the noncompetitive hiring authority must meet all of the qualification requirements of the position for which they seek consideration.

- **How can Military Spouses request consideration for appointment under the noncompetitive hiring authority?**

Since positions filled under this authority are in the competitive service, agencies must follow the public notice requirements outlined within United States Code, Title 5, 3330. The term “noncompetitive” under this authority means that Military Spouses do not have to compete with the general public by applying to job opportunity announcements open to all U.S. citizens; where qualified, preference eligible veterans receive priority preference and consideration over other candidates.

Military Spouses can find opportunities to be considered for appointments under the noncompetitive authority by searching for job opportunity announcements posted on USA Jobs ([www.usajobs.gov](http://www.usajobs.gov)) that are open to candidates eligible under the hiring authority.

- **Are hiring managers required to select Military Spouses who apply to vacancy announcements under this authority?**

No. Hiring managers are only required to select a Military Spouse when a spouse applies to a vacancy announcement as an eligible Priority Placement Program Military Spouse Preference candidate, and the spouse has been determined to be among the best qualified pool of applicants for the position being advertised.

- **Can spouses of active duty service members exercise Military Spouse preference when applying for positions under the hiring authority with temporary modifications?**

The eligibility requirements for Military Spouse preference are separate from the eligibility requirements for the noncompetitive hiring authority for spouses of active duty members. The temporary modifications to the hiring authority are not applicable to Military Spouse preference. Spouses must still meet the spouse preference eligibility requirements outlined in DoD policy, which include the requirement to PCS as a sponsored dependent to the military sponsor’s new permanent duty station.

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- **What do Military Spouses need to know about the temporary authority modifications implemented on October 21, 2021?**

Spouses of service members who are serving on active duty in the armed forces, or serving under orders specifying the individual is called or ordered to active duty for more than 180 consecutive days should take note of the temporary modifications outlined in the following table:

| 21 October 2021 – 12 August 2023  | Effective 13 August 2023   |
|---|--|
| <ul style="list-style-type: none"> <li>○ A spouse may receive an unlimited number of noncompetitive appointments under this authority.</li> </ul>   | <ul style="list-style-type: none"> <li>○ A spouse may receive a noncompetitive appointment under this authority if the service member receives permanent change of station orders, and is limited to one such appointment per permanent change of station.</li> </ul>  |
| <p><u>A spouse is eligible for appointment:</u></p> <ul style="list-style-type: none"> <li>○ From the date of documentation verifying the spouse’s marriage to a member of the armed forces where the spouse seeks appointment based upon marriage to an active duty member of the armed forces.</li> </ul>                             | <p><u>A spouse is eligible for appointment:</u></p> <ul style="list-style-type: none"> <li>○ From the date of documentation verifying the spouse’s marriage to a member of the armed forces where the spouse seeks appointment based upon marriage to an active duty member of the armed forces.</li> <li>○ If the service member of the armed forces receives orders authorizing a permanent change of station.</li> <li>○ If the spouse married the member of the armed forces on, or prior to, the date of such orders authorizing the permanent change of station.</li> <li>○ If the spouse has relocated or is relocating with the member of the armed forces to the new duty station specified in the documentation ordering the permanent change of station.</li> </ul> |
| <ul style="list-style-type: none"> <li>○ Noncompetitive appointment of eligible spouses is not restricted to a geographical location.</li> </ul>  | <ul style="list-style-type: none"> <li>○ Noncompetitive appointment of a relocating spouse of a member of the armed forces is limited to the geographic area of the permanent duty station of the member of the armed forces, unless there is no agency with a position within the geographic area of the permanent duty station of the member of the armed forces.</li> </ul>   |
| <p><u>Documentation required to prove eligibility:</u></p> <ul style="list-style-type: none"> <li>○ Documentation verifying active duty service member status.</li> <li>○ Documentation verifying marriage to the member of the armed forces (i.e., a marriage certificate or other legal documentation verifying marriage).</li> </ul> | <p><u>Documentation required to prove eligibility:</u></p> <ul style="list-style-type: none"> <li>○ Documentation verifying active duty service member status.</li> <li>○ Documentation verifying marriage to the member of the armed forces (i.e., a marriage certificate or other legal documentation verifying marriage).</li> <li>○ Copy of the service member’s orders reflecting a permanent change of station, dated August 13, 2023, or later.</li> </ul>  |

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- **How can spouses of retired service members or service members who were released or discharged from active duty in the armed forces, who have a disability rating of 100 percent as documented by the Department of Veterans Affairs, be considered under the authority?**
  - Spouses eligible under this provision of the authority may receive only one noncompetitive appointment under this authority.
  - Spouses must be currently married to the veteran member of the armed forces who has the 100% disability rating.
  - Spouses must provide documentation showing the 100% disability rating of the member of the armed forces who retired, or was released or discharged from active duty.
  - Spouses must provide documentation verifying marriage to the member of the armed forces (i.e., a marriage license or other legal documentation verifying marriage).
- **How can widows or widowers of veteran service members be considered under the authority?**
  - Spouses eligible under this provision of the authority may receive only one noncompetitive appointment under this authority.
  - Spouses must be the un-remarried widow or widower of the veteran service member who was killed while serving on active duty in the armed forces.
  - Spouses must provide documentation showing the member was released or discharged from active duty due to his or her death while on active duty.
  - Spouses must provide documentation verifying the member of the armed forces was killed while serving on active duty.
  - Spouses must provide documentation verifying the widow or widower's marriage to the member of the armed forces (i.e., a marriage license or other legal documentation verifying marriage).
  - Spouses must provide a statement certifying that the individual seeking to use the authority is the un-remarried widow or widower of the service member.
- **Where can Military Spouses find more information about the hiring authority?**

Additional information and Q&As regarding the Military Spouse noncompetitive hiring authority can be found on OPM's government-wide veteran's employment website, located at the following address: <https://www.fedshirevets.gov/hiring-officials/strategic-recruitment-and-hiring/special-hiring-authorities-for-military-spouses-and-family-members/#url=Military-Spouse-Appointing-Authority>

**Please contact your nearest Army Civilian Personnel Advisory Center for any additional information on the Noncompetitive Hiring Authority for Certain Military Spouses**