

# OCHR FACTSHEET

## VOW TO HIRE HEROES ACT

### This Fact Sheet:

- Defines the VOW To Hire Heroes Act
- Describes the requirements for HR and the applicant
- Answers Frequently Asked Questions regarding the VOW Act

DEPARTMENT OF THE NAVY  
CIVILIAN CAREERS

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## VOW Act Eases Transition From Active Duty to Federal Employment

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### What is the VOW Act?

On November 21, 2011, President Obama signed the VOW (Veterans Opportunity to Work) To Hire Heroes Act of 2011 (VOW Act), which amended chapter 21 of title 5, United States Code (USC) by adding section 2108a, “Treatment of certain individuals as veterans, disabled veterans, and preference eligibles.”

Specifically, the VOW Act requires Federal agencies to treat certain active duty service members (ADSM) as preference eligibles for purposes of an appointment to any position, even though the ADSMs have not been discharged or released from active duty, if the ADSM submits a certification at the time of application to a job opportunity announcement (JOA).

Per OPM, the certification should be on the letterhead of the appropriate military branch served and specify the (1) military service dates, (2) expected date of release or discharge from active duty service, and (3) the expected character of service.

The VOW Act regulation final rule, found at 5 CFR 211, became effective on December 21, 2016.

### How does the VOW Act help Federal Job Seekers on Active Duty?

Many ADSMs begin their civilian job search prior to discharge or release from active duty and prior to receiving a DD-214. The VOW Act ensures these transitioning service members do not lose the opportunity to be considered for federal service (and to be awarded veterans’ preference entitlements, when applicable) despite not having a DD-214 to submit along with their résumés/applications.

### Obligations for the DON and Applicants on Active Duty

The DON must accept an application from, apply veterans’ preference (if applicable) to, and consider for appointment any ADSM who submits an appropriate certification at the time of application, assuming the ADSM is otherwise eligible.

To receive such consideration, ADSMs must submit a certification, at the time of application, which certifies that the service member is expected to be discharged or released from active duty service under honorable conditions not later than 120 days after the date the certification is submitted.

Prior to appointment, however, agencies must verify the individual meets the definition of ‘preference eligible’ under 5 U.S.C. 2108.



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## Frequently Asked Questions

### Q1. Why was the VOW Act enacted? Active duty service members are not really veterans.

A1. The VOW Act requires federal agencies treat these “soon-to-be veterans with preference” as “actual veterans with preference” for hiring purposes and allows an active duty service member (ADSM) to “jump start” the federal job search.

### Q2. Does the VOW Act apply to the Excepted Service?

A2. Yes. In its interim rule dated December 29, 2014, OPM changed its position and “concluded that, by operation of 5 U.S.C. 3320, section 2108a does apply to appointments in the excepted service.”

### Q3. What exactly is a “certification?”

A3. In accordance with 5 U.S.C. 2108a and 5 CFR 211, “certification” is any written document from the armed forces certifying that the ADSM is expected to be discharged or released from active duty service in the armed forces under honorable conditions not later than 120 days after the date the certification is submitted at the time of application to a JOA. Also, the certification should be on the letterhead of the military branch served and contain military service dates. Within the DON, “certification” is interchangeably referred to as a “statement of service.”

### Q4. Do I automatically award veterans’ preference to individuals eligible under the VOW Act upon receiving the job application? How do I know that the applicant is really eligible to receive veterans’ preference points?

A4. No. The VOW Act requires agencies to grant tentative preference (TP) to any eligible ADSM who submits a certification. However, prior to appointment, agencies must verify the individual meets the definition of ‘preference eligible’ under 5 U.S.C. 2108.

### Q5. What effect does the VOW Act law and regulation impact how the DON processes applications?

A5. The DON human resources (HR) community *must* require a certification be submitted at the time of application to consider an ADSM for an appointment in the competitive service. If an ADSM does not submit a certification at the time of application or if one is submitted but the date of discharge or release (which encompasses terminal leave, if applicable) is more than 120 days after the date submitted with application, the ADSM is not be referred. Doing so may result in an improper selection or illegal appointment.

### Q6. What about ADSMs who, upon discharge or release, will not meet the definition of preference eligible under 5 U.S.C. 2108? The VOW Act does not apply to them, right?

A6. ADSMs who would not meet the definition of ‘preference eligible’ would be VEOA-eligible if the ADSM separated after 3 or more years of continuous active service performed under honorable conditions. The DON will allow these ADSMs to apply and be considered under merit procedures. However, to maintain equity and to be referred for consideration, the DON requires these ADSMs to comply with the VOW Act requirements. Additionally, the information within this FactSheet applies.

## Where to Find Additional Information

The VOW Act Final Rule (effective 21 Dec 2016) can be found at:  
<https://www.gpo.gov/fdsys/pkg/FR-2016-11-21/pdf/2016-27886.pdf>

The OPM memo to implement the VOW Act (dated 15 Jun 2012) can be found at:  
<https://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=4881>

The VOW (Veterans Opportunity to Work) to Hire Heroes Act of 2011 (dated 5 Jan 2011) can be found at:  
<http://www.gpo.gov/fdsys/pkg/BILLS-112hr674enr/pdf/BILLS-112hr674enr.pdf> (see sec 235)

