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New Rules: Vietnam Era Veterans' Readjustment Assistance Act

What is the Vietnam Era Veterans' Readjustment Assistance Act?

Originally passed in 1974, the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) aimed to provide assistance to returning Vietnam veterans and to protect them from employment discrimination. VEVRAA is one of two key federal laws prohibiting discrimination against returning veterans. The other law, the Uniformed Services Employment and Reemployment Rights Act (USERRA), was passed in 1994 and amended in 2005. Virtually all U.S. employers must comply with USERRA. Employers who are federal contractors or subcontractors must comply with VEVRAA. Though VEVRAA and USERRA are not limited to veterans' disability issues, these two laws do provide protections for veterans with disabilities.

What gave rise to the new rules?

Despite these legal protections, veterans with disabilities have continued to face barriers and discrimination in employment. The employment rate of veterans with disabilities is lower than that of veterans without disabilities. About one-third of veterans with



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disabilities are working, compared with more than three-fourths of veterans without disabilities.ⁱ Further, most veterans with disabilities believe they can work, but have significant fears of disability discrimination in the workplace.ⁱⁱ

What is the aim of the VEVRAA new rules?

On March 24, 2014 new rules for VEVRAA took effect. These new rules aim to strengthen affirmative action requirements so that federal contractors and subcontractors improve their efforts to recruit and hire protected veterans. The VEVRAA new rules rescind VEVRAA 41 CFR Part 60-250. However, any veterans that are protected by part 60-250 alone will still be able to pursue complaints of discrimination. (Please note: VEVRAA new rules were passed in tandem with new rules for Section 503 of the Rehabilitation Act).

Which employers have obligations under the new VEVRAA Final Rules?

Enforced by the Office of Federal Contract Compliance Programs (OFCCP), the new VEVRAA Final Rules impact employers who have federal contracts or subcontracts of \$100,000 or more.

Which veterans have rights under the new VEVRAA Final Rules?

Despite its name, VEVRAA protections are not limited to Vietnam era veterans (generally defined as those veterans who served in Vietnam between February 28, 1961, and May 7, 1975). In addition, VEVRAA protects the employment rights of several categories of veterans. Called *protected veterans*, these are veterans who are:

- Disabled veterans: Those who are “*entitled to compensation...under laws administered by the Secretary of*



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Veterans Affairs” or “those who were released from active duty because of a service-connected disability.”ⁱⁱⁱ

- Recently separated veterans;
- Active duty wartime or campaign veterans;
- Campaign badge veterans; or
- Armed Forces service medal veterans.^{iv}

What are employers required to do?

Set a benchmark. Employers must set a hiring benchmark using one of the two methods: 1. Adopt the benchmark based on the national percentage of veterans currently in the workforce; 2. Create an individualized benchmark based on their own interpretation of the best available data nationally and within their state/region. For more information on finding this data and setting benchmarks, go to <http://www.dol-esa.gov/errd/VEVRAA.jsp>.

Invite voluntary self-identification. Employers must invite individuals to voluntarily self-identify as a protected veteran. Pre-offer invitation to self-identify will involve asking whether the applicant believes that s/he is a protected veteran under VEVRAA without asking about the particular category of protection. Post-offer self-identification will request information regarding the specific category of protected veteran status. Sample self-identification forms for both pre- and post-offer can be found in Appendix B of the Final Regulation. Go to http://www.ecfr.gov/cgi-bin/text-idx?SID=b885fe75a1c4766ffab5c0316b13f11d&node=41:1.2.3.1.9&rgn=div5#se41.1.60_6300_12 and scroll down to Appendix B Part 60-300.



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Comply with OFCCP reviews. Provide on-site and off-site access to documents needed for compliance and focused reviews. Also, the OFCCP is permitted to extend the timeframe of the audit beyond what was set forth in the scheduling letter if this is deemed necessary to carry out the investigation.

Track the effectiveness of veteran recruiting and hiring efforts.

Using data obtained from the invitation to self-identify, employers can track and report the success of their efforts to comply with VEVRAA and fully include qualified protected veterans in the workforce. At the job application stage, collect three types of data: 1. The number of protected veterans who applied for jobs; 2. The total number of job openings and jobs filled; and 3. The total number of applicants for all jobs. At the employment stage (after a job offer has been extended), collect two types of data: 1. The number of protected veteran applicants hired; and 2. The total number of applicants hired. Retain this data for at least three years.

Provide access to job listings. Provide job listings in a format that can be used by veterans' Employment Service Delivery Systems (ESDS) (formerly referred to in the regulations as State Workforce System). Job listings sent to ESDS must identify the company as a federal contractor.

Communicate to subcontractors. Use mandated language in federal contracts (including subcontracts) to communicate the contractor's obligations to employ and advance protected veterans.

Outreach and Positive Recruitment. Find and use resources to recruit protected veterans. The new rules direct employers to use appropriate outreach and positive recruitment activities. For example, use the Department of Defense Transition Assistance Program (see http://www.dol.gov/vets/programs/tap/tap_fs.htm)



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or the National Resource Directory (see <https://www.nrd.gov>). Contractors are allowed to identify other sources they feel will be helpful in identifying and attracting veterans.

How can I get more information?

- To view the VEVRAA Final Rules, go to www.dol.gov/ofccp/VEVRAARule.
- For more information on the VEVRAA final rule, go to the U.S. Department of Labor document at <http://www.dol.gov/ofccp/regs/compliance/vevraa.htm>.
- For Questions and Answers, go to the OFCCP document found at http://www.dol.gov/ofccp/regs/compliance/faqs/VEVRAA_faq.htm

ⁱ Erickson, W. & Rudstam, H. (2014). Employment Data for Veterans with Disabilities. National ADA Network Factsheet. Accessed at <https://adata.org/factsheet/employment-data-veterans-disabilities>.

ⁱⁱ Rudstam, H., Wilson, J., & Gower, W. (2014). *Beyond Yellow Ribbons:*

Welcoming Veterans with Disabilities in our Workplaces. Presented at the National ADA Symposium, Denver CO.

ⁱⁱⁱ U.S. ELECTRONIC CODE OF FEDERAL REGULATIONS. PART 60-300. Subpart A.

[§60-300.2 Definitions.](http://www.ecfr.gov/cgi-bin/text-idx?SID=b885fe75a1c4766ffab5c0316b13f11d&node=41:1.2.3.1.9&rgn=div5#se41.1.60_6300_12) Accessed at http://www.ecfr.gov/cgi-bin/text-idx?SID=b885fe75a1c4766ffab5c0316b13f11d&node=41:1.2.3.1.9&rgn=div5#se41.1.60_6300_12.

^{iv} For more information on definitions of these protected veterans go to [http://www.ecfr.gov/cgi-bin/text-](http://www.ecfr.gov/cgi-bin/text-idx?SID=b885fe75a1c4766ffab5c0316b13f11d&node=41:1.2.3.1.9&rgn=div5#se41.1.60_6300_12)



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