ARA

Veterans' Preference in Federal Reductions in Force

Information current as of November 1, 2026

THE BOTTOM LINE

A rule from the U.S. Office of Personnel Management (OPM), in effect since September 2, 2026, turns veterans' preference in federal layoffs from a guaranteed place in line into a fixed number of points that a higher-rated nonveteran can overcome. Under the old rules, a veteran whose performance was acceptable ranked ahead of every nonveteran in the same tenure group. Now employees are ranked mainly by their three most recent performance ratings, on a scale that runs to 21 points, and veterans add 5 points if they have a service-connected disability rated 30 percent or more, or 3 points otherwise. The rule is final and governs layoff notices issued on or after September 2. Whether it is consistent with the governing statute is disputed, and as of November 1, 2026, no lawsuit directly challenging it had been identified.

What the rule changes

Layoffs, explained. When a federal agency must cut positions, it conducts a reduction in force, or RIF. Employees who compete for the same kinds of jobs are ranked on a retention register, and those with the lowest standing are the first to be separated, demoted, or furloughed. RIFs were rare until 2025: RIF separations never exceeded 300 in a fiscal year during the preceding decade, but 10,436 employees were separated by RIF between January 20, 2025, and January 2026, according to the Partnership for Public Service. In this summary, "veteran" means an employee with veterans' preference.

The old order. Before September 2, employees were sorted first by tenure group, then by veterans' preference, then by length of service, with extra service credit for ratings of Fully Successful or better. Performance mattered only among employees in the same group and subgroup, so a veteran rated acceptable ranked ahead of every nonveteran in the same tenure group, whatever their ratings.

The new order. Each of an employee's three most recent ratings of record from the past four years earns 7 points (Outstanding), 5 (Exceeds Fully Successful), 3 (Fully Successful), or 0 (any lower rating), for a maximum of 21. Veterans with a service-connected disability rated 30 percent or more add 5 points, and other veterans add 3. Tenure and length of service now only break ties, and an employee's standing is fixed on the date the RIF notice arrives.

Who is not ranked. Employees serving initial probationary or trial periods, who used to compete in the second tenure group with their preference, are no longer ranked. Temporary employees on appointments of one year or less and Schedule C and Schedule G employees are also outside the competition. Agencies may keep or release these employees without following the retention order, though those released for RIF reasons must receive a modified notice.

Appeals. A companion rule moves RIF appeals from the Merit Systems Protection Board (MSPB) to OPM, bars grievances over RIFs, and bars court review of OPM's decisions. Veterans keep a separate complaint route under the Veterans Employment Opportunities Act (VEOA).

What is settled and what is not

The rule is final. It took effect on September 2, 2026, and governs RIFs for which agencies issue notices on or after that date; RIFs noticed earlier proceed under the old rules. Because ratings now drive retention, a separate OPM rule on performance appraisal shapes RIF outcomes directly. It lets OPM set how ratings are distributed, and for fiscal year 2026 OPM capped the combined share of the two highest rating levels at 40 percent for career Senior Executive

Service, senior professional, and General Schedule employees, a limit it called "a ceiling, not a target." Bargaining agreements that prohibit such distributions remain in force until they expire, and agencies must use the new rating patterns beginning January 1, 2027.

What is not settled is whether the rule is lawful. The governing statute, 5 U.S.C. § 3502, says that an employee with retention preference whose performance has not been rated unacceptable "is entitled to be retained in preference to other competing employees." OPM reads that as a right to a meaningful advantage, not to first place; critics read it as a guarantee that depends only on acceptable performance. Since the Supreme Court's 2024 decision in *Loper Bright Enterprises v. Raimondo*, a court would decide for itself whether the rule honors that entitlement, even though the statute's "due effect" language plausibly leaves the weighting of tenure, service, and performance to OPM. The appeals rule also narrows where the question can be heard. A VEOA complaint is the clearest remaining path for an individual veteran, although whether such a complaint can challenge the regulation itself, rather than an agency's application of it, is an open question.

The numbers behind the report

By the numbers. These figures come from the rule, OPM workforce data, and ARA's own modeling, cited in full in the report:

3 / 5	**Points veterans add to a performance score that runs to 21.** Other veterans add 3 points, and veterans with a service-connected disability rated 30 percent or more add 5. OPM calculates these as 14.3 and 23.8 percent of the scale.
6 points	**What a one-level rating difference, such as Fully Successful versus Exceeds Fully Successful, is worth when it holds across all three ratings, more than either veterans' credit.** A veteran with the 5-point credit and three Fully Successful ratings scores 14 and ranks below a nonveteran with three Exceeds Fully Successful ratings, who scores 15.
22 to 77%	**Share of nonveteran competitors that a veteran with three Fully Successful ratings outranks with the 3-point credit, across the four illustrative rating distributions ARA modeled.** With the 5-point credit, the range is 47 to 94 percent. Under the old rules, the figure was 100 percent within a tenure group.
621,751	**Veterans in the federal executive branch in fiscal year 2024, 27.4 percent of all employees.** Of these, 545,352 had veterans' preference, and 262,385 had a service-connected disability rated 30 percent or more.
314,311	**Veterans at the Department of Defense (DoD), about half of all veteran employees.** DoD has ranked employees by performance first since 2017, so the largest change falls on the roughly 307,000 veterans at other agencies, including 122,094 at the Department of Veterans Affairs.

The changes matter most for veterans outside DoD; for long-serving veterans, whose length of service once compounded their preference and now only breaks ties; and for veterans serving probationary periods, who are no longer ranked at all. Agencies hired 47,634 preference-eligible veterans in fiscal year 2024. Some veterans gain: a career-conditional veteran with strong ratings, who once ranked below every career nonveteran, can now outrank one with weaker ratings.

Both sides of the question

Consistent with ARA's nonpartisan mandate, the report presents the case for and against on equal terms. **Supporters**, including OPM, the Office of Special Counsel, the Departments of Agriculture and Labor, FGA Action, and the Niskanen Center, say performance should count for more in RIFs. FGA Action argued that performance has been "systematically underweighted," and the Niskanen Center, which conditioned its support on safeguards against manipulation of competitive areas, said the old order released newer employees with the most marketable skills first. OPM argues that the statute leaves the weight of each factor to the agency, that preference was never absolute across tenure groups, and that its credit is "materially stronger than hiring preference as a scoring weight." **Critics**, including federal employee unions and the National Employment Lawyers Association, say the statute protects any veteran rated acceptable, a reading that draws support from the Supreme Court's 1948 decision in *Hilton v. Sullivan* and from

Congress's rejection in 1978 of a proposed time limit on retention preference. Disabled American Veterans (DAV) argued instead that the statute's "due effect" mandate requires a balance "ensuring that no single factor dominates." DAV called preference "a substantive statutory entitlement" and argued that the proposal would reduce it to "a largely illusory consideration," a contention OPM called "not accurate." The Veterans of Foreign Wars took a middle position, supporting modernization while asking for revisions that would keep preference "meaningful and enforceable." **The research record** carries a caution for both sides. In the 1990s, GAO found that employees without preference were far more likely to lose their jobs in RIFs, and that at three DoD installations women and minorities were disproportionately separated, in part because they ranked lower on retention factors, including veterans' preference. In the report's reading, the old system protected veterans substantially but shifted losses toward nonveterans, while the new system spreads losses more evenly across veteran status but makes outcomes depend on the accuracy of performance ratings, which have long clustered at the top of the scale. The report states both sets of facts and lets readers weigh them.

Where things stand

For veterans facing a possible RIF. Retention standing now depends mainly on the three most recent ratings of record from the four years before notices issue. If fewer than three ratings exist, the rule fills the gap: a single rating is counted three times, two ratings are averaged to supply the third, and an employee with no rating receives the modal, or most common, rating.

For veterans at DoD. DoD has used its own performance-first system since 2017, in which preference mainly breaks ties after ratings. Whether DoD revises its instruction to match the new rule will determine how its roughly 314,000 veterans are ranked.

For veterans on probation. Veterans in an initial probationary or trial period are no longer ranked in a RIF and receive no preference points. Whether that helps or hurts a given veteran depends on how the agency uses its discretion to keep or release probationers.

For appeals and complaints. RIF appeals now go to OPM rather than the MSPB, and OPM's rule bars grievances and court review of its decisions. A veteran who believes a RIF violated a veterans' preference law or regulation may still file a complaint with the Department of Labor's Veterans' Employment and Training Service (DOL VETS) within 60 days, pursue it before the MSPB, and in some cases take it to federal district court.

In Congress and the courts. As of November 1, 2026, ARA identified no lawsuit directly challenging the rule and no enacted change to § 3502 since the rule took effect. Unions sued OPM in August 2026 over its appraisal and suitability rules, a case that matters for veterans because ratings issued under the appraisal rule now set retention standing.

A practical step before any RIF notice

If you have veterans' preference and work for a federal agency, check two things now. First, confirm that all of your ratings of record from the past four years appear in your personnel records, because missing ratings are filled in by formula. Second, confirm that your records show the correct veterans' preference status, because only a service-connected disability rated 30 percent or more earns the 5-point credit. If you later receive a RIF notice and believe your preference was not applied correctly, keep in mind that a VEOA complaint must be filed with DOL VETS within 60 days after the alleged violation. OPM posts its RIF guidance on its Reductions in Force (RIF) page at opm.gov, and the Department of Labor's Veterans' Preference Advisor at dol.gov explains the VEOA complaint process.

About this summary. Agard Research Associates Inc. (ARA) is a nonpartisan, nonprofit research institute in New Jersey. This document summarizes the full ARA report, Veterans' Preference in Federal Reductions in Force (November 2026), which contains complete citations for every figure above. It neither supports nor opposes any party, candidate, or legislation, and it is general information, not legal advice. Version 1.0, November 2026.

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