

**STATEMENT OF
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OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT
UNITED STATES SENATE
MARCH 7, 2006**

Mr. Chairman and Members of the Subcommittee:

On behalf of the 1.3 million members of the Disabled American Veterans (DAV), thank you for the opportunity to present our views on the state of veterans' preference in federal employment. The DAV was founded on the principle that our nation's first obligation to veterans is the rehabilitation of its wartime disabled. Along with quality health care and adequate compensation, this principle envisions gainful employment as a primary step toward that goal. It is our duty as a grateful nation to ensure that those who have sacrificed so dearly in the name of freedom have the opportunity and support needed for self-sufficiency.

The United States has recognized that members of the armed forces deserve special consideration regarding appointments to federal positions since the Revolutionary War. Along with rewarding veterans for their patriotic duties and sacrifices, our government realized the value in harnessing veterans' inherent leadership qualities and skills, which are essential to any successful business or government agency. Emphasis on hiring veterans has provided a benefit to our entire national economy throughout the history of our country. While many regulatory provisions and Executive Orders accorded veterans a preference in federal employment prior to World War II, no statutory provisions existed until veterans' service organizations' efforts to elevate such preferences resulted in the Veterans' Preference Act of 1944. With the exception of a few modifications and enhancements, current veterans' preference laws have remained essentially the same since they were first codified.

The Act, as amended, requires that eligible veterans be given enhanced consideration for federal jobs. This is done by adding either 5 or 10 points to the passing examination scores of honorably discharged veterans meeting certain military service requirements. The basic preference to which applicants are entitled is the 5-point preference. The 10-point preference is given to disabled veterans and Purple Heart recipients, as well as to the eligible spouses, unmarried surviving spouses, and mothers of totally disabled or deceased veterans. Candidates are ranked according to their examination ratings augmented by their preference points. Service-connected disabled veterans who have compensable disabilities are automatically placed at the top of civil service registers for nonprofessional, nonscientific positions below GS-9. Federal agencies have discretionary authority to give noncompetitive appointments to any veteran who has a service-connected disability of 30 percent or more. Federal law also gives eligible veterans certain protections that help them retain their jobs during a reduction-in-force.

Despite statutory requirements providing such preferences, we occasionally receive anecdotal information from disabled veterans seeking federal employment who believe their

preference rights were ignored or intentionally circumvented by the agencies to which they had applied. Most often, such complaints are in reference to the outstanding scholar program (OSP). Many federal agencies use the OSP to hire new employees who have maintained college grade point averages of 3.5 or higher. The process enables agencies to hire new employees in a relatively quick and easy manner, but no evidence exists to indicate that OSP hires possess any more initiative or common sense than other categories of employment candidates. Regardless, a qualified veteran should never be passed over in favor of an OSP candidate. As previously stated, veterans' preference is a statutory requirement. The OSP is merely a regulatory provision, therefore it lacks the precedence veterans' preference holds. Besides being based on higher statutory authority, veterans' preference provides a better indication that a candidate will be a reliable, hard working employee. Veterans have already proven themselves to be goal oriented, disciplined, drug-free, and patriotic.

In August 2005 the U.S. Merit Systems Protection Board (MSPB) ordered the U.S. Department of Agriculture (USDA) to retroactively appoint an appellant, David Dean, to a position that was given to a new employee under the outstanding scholar program. Dean is a service-connected disabled veteran who contended that the USDA hired a non-veteran under the OSP as a way to get around the veterans' preference requirement. In an unprecedented decision, the MSPB ruled in favor of the veteran. Clearly, the DAV, along with our fellow veterans' organizations, was quite pleased with the ruling. Our satisfaction was short lived however because soon after the MSPB made its decision, the U.S. Office of Personnel Management (OPM) requested that the decision be overturned. OPM's stated concern was that the OSP would be weakened. Clearly, if OPM had its way and the decision was in favor of the OSP, veterans' preference would be the program that was weakened. The unmistakable message OPM sent to disabled veterans is that their sacrifices are less meritorious than the ability to maintain decent scores at the local college. My frequent contact with OPM and its staff members avails me enough knowledge to state with some confidence that the consequences of its action were unintentional. Still, it is outrageous that such ramifications were not carefully considered, especially when thousands of disabled veterans are returning from operations in the War on Terrorism.

Veterans' preference is also weakened by the variety of systems and processes used by the different federal agencies to hire new employees. A 5 or 10 point preference is meaningless in a system that does not employ standard 100 point examinations. Agencies also create various categories from which to hire. Such techniques, sometimes referred to as "stove piping," can be manipulated to achieve desired outcomes. For instance, disabled veterans could be placed at the top of every category in which they are listed, but unless an employee is selected from their respective category, they will never get the job they are seeking. More uniformity is needed to ensure this injustice does not occur. A single application process or single application portal should be established so that applicants are accorded fair measure, and veterans' preference is not circumvented.

We appreciate the Committee's interest in these issues, and we appreciate the opportunity to present the DAV's views, which we hope will be helpful.