

**COMPARISON GUIDE
TITLE 38, HYBRID TITLE 38 AND TITLE 5**

	Title 38	Hybrid Title 38	Title 5 (General Schedule)
Personnel Systems	<ul style="list-style-type: none"> • Excepted Service system administered by the Department of Veterans Affairs (VA) 	<ul style="list-style-type: none"> • Employees are covered under Title 38 for appointment, advancement and some pay purposes. For all other purposes Hybrids are covered under Title 5 	<ul style="list-style-type: none"> • Competitive Service system administered by the Office of Personnel Management (OPM)
Appointment	<ul style="list-style-type: none"> • Excepted Service • Review of qualifications by peers (Professional Standards Board) and approval by a designated management official • Without prior Federal service, individuals are generally appointed at the minimum step of the grade (or level, RNs only) • Higher rates of pay may be authorized based on prior Federal Service or based on personal qualifications, superior or unique qualifications, or special need of VA. Recommended by PSB. 	<ul style="list-style-type: none"> • Excepted Service • Without prior Federal service, individuals are generally appointed at the minimum step of the grade • Higher rates of pay may be authorized based on an individual's existing pay, higher or unique qualifications or special needs of VA 	<ul style="list-style-type: none"> • Competitive Service • Without prior Federal service, individuals are generally appointed at the minimum step of the grade (step 1) • Higher rates of pay may be authorized based on prior Federal Service or an appointment above the minimum rate of the grade
Probationary Periods	<ul style="list-style-type: none"> • Employees serve a two-year probationary period • A Professional Standards Board reviews the performance of employees to determine if it is satisfactory and if they are to be retained as permanent employees 	<ul style="list-style-type: none"> • One-year probationary period 	<ul style="list-style-type: none"> • Competitive Service employees serve a one-year probationary period • If, after full and fair trial, the employee's conduct, general character traits, or capacity do not constitute satisfactory service, action must be taken to separate the employee
Basic Pay	<ul style="list-style-type: none"> • Physicians Assistants, Optometrists, Podiatrists, Chiropractors and Expanded-Function Dental Auxiliaries (EFDAs) are paid a basic rate at the grade and step on the Title 38 pay schedule prescribed by law for the occupation involved. Pay 	<ul style="list-style-type: none"> • Rates of pay under the General Schedule pay system unless a special rate is authorized. • Special Salary Rates may be approved locally when higher rates in the private sector market area are 	<ul style="list-style-type: none"> • Rates of pay under the General Schedule pay system are based on equivalent levels of responsibility in the non-Federal sector. • Special Salary Rates may be approved by the Under Secretary of Health, with

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	<p>is comparable to the applicable GS Locality Pay chart or a special rate, if authorized</p> <ul style="list-style-type: none"> Registered Nurses are subject to the VA's Nurse Locality Pay System; pay rates are determined locally and established to be competitive with comparable rates in the local labor market without being the pay leader. Pay for Physicians and Dentist is subject to VHA Physician and Dentist pay system and is comprised of base pay, market pay, and performance pay. 	<p>causing or expected to cause significant recruitment and/or retention problems</p>	<p>OPM concurrence for VA Police Officers and Title 5 health care workers, when higher rates in the private sector market area are causing or expected to cause significant recruitment and/or retention problems.</p>
<p>Premium Pay</p>	<p>RNs, Physician Assistants and EFDAs:</p> <ul style="list-style-type: none"> *Overtime: 1.5 of the basic hourly rate for hours in excess of 8 consecutive hours or in excess of 40 hours per week *Night differential: 10% of basic hourly rate for each hour of service when 4 or more hours fall between 6 PM and 6 AM; If less than 4 hours, payable only for hours between 6 PM and 6 AM. *Weekend Pay: 25% of basic hourly rate for service performed, any part of which falls between midnight Friday and midnight Sunday. *Holiday pay: For work during regular tour or overtime on a holiday, rate of basic pay plus an additional amount equal to the rate of basic pay. *On-call: 10% of overtime rate for each hour (outside of regular tour) in an on-call status; <p>Physicians, Dentists, Optometrists, Podiatrists, Chiropractors are paid on the basis of 24/7 availability and therefore do</p>	<ul style="list-style-type: none"> Other than Weekend Pay, Hybrid Title 38 employees receive premium pay under Title 5 unless the Facility Director has authorized premium on the same basis as RNs. Weekend Pay: 25% of basic hourly rate for service performed, any part of which falls between midnight Friday and midnight Sunday. FLSA exempt employees receive overtime at the greater of one and a half of their basic hourly rate not to exceed one and a half of the applicable GS 10 step 1 rate or the employee's basic hourly rate. FLSA non-exempt employees receive overtime of at least 1 ½ of their basic hourly rate based on the FLSA overtime formula. Night Differential: 10% of basic hourly rate for each hour of regularly scheduled work performed between 6 PM and 6 AM 	<ul style="list-style-type: none"> FLSA exempt employees receive overtime at the greater of one and a half of their basic hourly rate not to exceed one and a half of the applicable GS 10 step 1 rate or the employee's basic hourly rate. FLSA non-exempt employees receive overtime of at least 1 ½ of their basic hourly rate based on the FLSA overtime formula. Night Differential: 10% of basic hourly rate for each hour of regularly scheduled work performed between 6 PM and 6 AM. Sunday Pay: 25% of basic hourly rate for tour any part of which falls between midnight Saturday and midnight Sunday, unless the position is identified as a title 5 health care worker or in a position determined to be eligible for weekend premium pay (See Weekend Premium, below) Holiday pay: For work during regular tour, rate of basic pay plus an additional amount equal to the rate of basic pay. Standby pay: Up to 25% of annual rate

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	<p>not receive premium pay</p> <p>*Higher rates of premium pay may be authorized by facility director when needed for recruitment and retention purposes.</p>	<p>When a Hybrid Title 38 occupation is authorized to receive premium pay on the same basis as RNs, all premium pay is paid based on Title 38 entitlements – For example, Night Differential is paid for “each hour of service” under Title 38 instead of being paid for each hour of “regularly scheduled” work under Title 5; and OT is paid at a true-1.5 with no cap imposed for hours in excess of 8 consecutive hours or in excess of 40 hours per week.</p>	<p>of pay in lieu of all other premium pay, except for irregular or occasional overtime.</p> <ul style="list-style-type: none"> Weekend Premium Pay (Title 5 healthcare worker or position determined to be eligible for weekend premium pay): 25% of hourly rate of pay for each hour of service performed on a tour of duty, when any part of such tour falls between midnight Friday and midnight Sunday.
<p>Promotions</p>	<ul style="list-style-type: none"> Employees are considered periodically by a Professional Standards Board for promotion to the higher grade upon meeting the required time-in-grade and qualification requirements Appropriate officials approve or disapprove the recommendation of the board 	<ul style="list-style-type: none"> Similar to Title 38 Employees may be promoted up to the full performance level within the supervisory chain. Promotions above the full performance level are considered and recommended by a PSB. Time-in-grade requirements do not apply but specialized experience requirements must be met. 	<ul style="list-style-type: none"> In positions with career ladders, competitive employees may be promoted through intermediate grade levels to the journeymen level after meeting required time-in-grade and acceptable level of competence In positions with no known promotion potential employees may only advance through competitive merit promotion procedures
<p>Periodic Step Increase</p>	<ul style="list-style-type: none"> Podiatrists, Optometrists and Chiropractors receive within-grade increases every 104 weeks if there has been no "equivalent increase in compensation" during that period and their work has been at an "acceptable level" Physician Assistants (PAs) and Expanded-Function Dental Auxiliaries (EFDAs) on the regular rate range of Junior or Associate grade: 52 weeks. All other PAs and EFDAs: 104 weeks The waiting period for periodic step increases for nurses and nurse anesthetists varies (52 weeks at 	<ul style="list-style-type: none"> Same as Title 5 52 week waiting period for employees at steps 1 –3; 104 week waiting period for employees at steps 4 – 6; and 156 week waiting period for steps 7 and above 	<ul style="list-style-type: none"> Employees receive a within-grade increase upon completion of the waiting period provided there has been no equivalent increase and on determination that the employee's performance is of an acceptable level of competence. The appropriate waiting period is 52 weeks for steps 1 – 3; 104 weeks for steps 4 - 6, and 156 weeks for steps 7 and above

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	<p>Nurse I at certain levels and 104 weeks for all other grades)</p> <ul style="list-style-type: none"> Physicians and Dentists receive Longevity Step Increases based upon completing the required waiting period of two years (104 weeks) of creditable VHA service 		
<p>Special Advancement for Performance (SAP) or Quality Step Increase (QSI)</p>	<ul style="list-style-type: none"> Podiatrists, Optometrists and Chiropractors who have demonstrated a sustained high level of performance and professional competence may be considered for a 3-step within grade special advancement for performance in lieu of and on the same due date for a periodic step increase Physicians and Dentists are not eligible for SAPs Nurses, Nurse Anesthetists, PAs and EFDAs may be granted a one step SAP 	<ul style="list-style-type: none"> Eligible for one-step SAP, subject to meeting the same criteria of Title 5. 	<ul style="list-style-type: none"> Competitive employees may receive a one step quality step increase (QSI)
<p>Special Advancement for Achievement (SAA)</p>	<ul style="list-style-type: none"> Employees who have achieved exceptional and recognized professional attainment such as certification by a specialty board or a professional certification may be considered for advancement within the grade from 1 to 5 steps not to exceed the maximum of the grade upon recommendation of a Professional Standards Board Physicians and Dentists are not eligible for SAAs Nurses and Nurse Anesthetists may receive cash awards for certification and cash awards for exemplary performance or achievement 	<ul style="list-style-type: none"> Same as Nurses, Nurse Anesthetists, PAs and EFDAs 	<ul style="list-style-type: none"> Not Eligible Title 5 has a different cash award program

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<p>Hours of Duty</p>	<ul style="list-style-type: none"> • Full-time Physicians, Dentists, Optometrists, Podiatrists and Chiropractors are to be available 24 hours per day 7 days per week. (Normally tours of duty are 40 hours and 5 days per week). Do not receive any type premium pay (no overtime, shift or weekend pay, on-call pay, etc.) • All other employees must be available for a 40-hour, 5-day workweek • Other tours may be established to meet patient care requirements • Employees may also work compressed or flexible tours 	<ul style="list-style-type: none"> • Same as Title 5 	<ul style="list-style-type: none"> • Normal 40 hour workweek, Monday through Friday • Eligible for compressed and flextime
<p>Annual Leave</p>	<ul style="list-style-type: none"> • Physicians, Dentists, Optometrists, Podiatrists and Chiropractors earn 26 days of leave per year • Leave is charged in whole day increments (1 day) • The maximum accumulation per year is 86 days • Nurses, PAs and EFDAs earn 8 hours a pay period (26 days per year) Maximum accumulation is 685 hours per year 	<ul style="list-style-type: none"> • Same as Title 5 • Leave is earned based upon the years of creditable Federal service: 1-3 years: 4 hours per pay period 3-14 years: 6 hours per pay period 15+ years: 8 hours per pay period Leave is charged in quarter hours Maximum accumulation is 240 hours per year 	<p>Leave is earned based upon the years of creditable service:</p> <p>1-3 years: 4 hours per pay period 3-14 years: 6 hours per pay period 15+ years: 8 hours per pay period</p> <p>Leave is charged in quarter hours</p> <p>Maximum accumulation is 240 hours per year</p>
<p>FMLA</p>	<p>Generally employees receive up to 12 workweeks of paid or unpaid leave during any 12 month period for:</p> <ul style="list-style-type: none"> • The birth and care of a son or daughter of the employee • The placement of a son or daughter with the employee for adoption or 	<ul style="list-style-type: none"> • Same 	<ul style="list-style-type: none"> • Same

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	<p>foster care</p> <ul style="list-style-type: none"> • The care of a spouse, son, daughter, or parent of the employee who has a serious health condition • A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position 		
<p>Performance Review</p>	<ul style="list-style-type: none"> • Employees (except supervisors, managers, and key officials who are covered under the VHA Performance Appraisal Program) receive Proficiency Reports annually on the anniversary date of employment • Special reports may be prepared as appropriate and necessary prior to a probationary period or Disciplinary Board Review • Title 38 supervisors, managers, and key officials are covered under the VHA Performance Appraisal Program and do not receive Proficiency Reports. 	<ul style="list-style-type: none"> • Same as Title 5 	<ul style="list-style-type: none"> • A formal written performance rating once a year • Special reports are done • Performance ratings are used in making determinations on promotions, reductions-in-force, within-grade increases for GS employees, training, and adverse actions based on poor performance. Performance ratings may be reviewed if employee disagrees with the performance rating assigned.

Note: This document is a comparison guide highlighting general differences in the Title 38, Hybrid Title 38 and Title 5 personnel systems. This guide only provides general references and should not be used as a substitute for researching VA policy and Federal regulations. For detailed information please consult the VA Handbooks and regulatory guidance published in the Code of Federal Regulations, as applicable.