Comparison of Title 38 with Hybrid Title 38 Positions

ISSUE	TITLE 38	HYBRID TITLE 38
Leave Charged	Minimum charge of one day for leave taken.	Minimum charge for leave is one quarter hour.
Tardiness or Absence for Part of a Day	Full day's leave for absence for a part of a day, unless the absence is excused by officials authorized to approve leave.	Minimum charge for leave is one quarter hour.
Probationary Period	2 years	1 year
Appointing Authority	Title 38 employees are covered under Title 38 for appointment, advancement, and pay purposes.	Covered under Title 38 for appointment, advancement, and pay purposes. For all other personnel actions these employees are treated as Title 5.
Collective Bargaining	38 USC Section 7422, which excludes certain matters from collective bargaining by employees appointed under Title 38 of the U.S. Code, regardless of whether or not the statutory provision is specifically cited in the article. The exception is that any collective bargaining agreement or grievance procedure can have no applicability to 1. Professional conduct or competency. 2. Peer Review and 3. Setting and determination of Compensation.	Exception Clause does not apply to collective bargaining.
Annual Leave	Title 38 Full-Time Nurses, Pas, EFDA earn 8 hours per pay period. Physicians, Dentist, Podiatrists, Optometrists, and Chiropractors earn 1 day per pay period.	Title 5 applies to Hybrid Title 38 employees for leave earned.
Carryover of earned annual leave	Maximum carry over accumulation of AL for PAs and Nurses is 685 hours. For Physicians, Dentist, etc. it is 86 days. The "carry over provision" applies when employees are not able to use their leave through no fault of their own.	Maximum carryover is 240 hours

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Carryover of earned sick leave	No maximum carryover.	No maximum carryover.

Background Title 38

Title 38 was created by Congress after World War II to give VHA *greater flexibility* in hiring, appointment, promotion, pay, hours and leave, <u>recruitment and retention</u>, and <u>competition with non-Federal</u> <u>healthcare employers</u>.

Public Laws Which Established Title 38 Employees

Public Law 79-293	Provided for employment and utilization of physicians, dentists, and nurses
Public Law 94-123	Provided for the inclusion of physician assistants and expanded-function dental auxiliaries
Public Law 94-581	Provided for the inclusion of podiatrists and optometrists.
Public Law 108-170	provided for the inclusion of chiropractors

In 2003, Public Law 108-170 provided for conversion of twenty-one Title 5 professions to Hybrid Title 38 positions including audiologists and speech pathologists.

<u>Hybrid Title 38 Employees</u> also include psychologists, respiratory and physical therapists, dental hygienists, licensed practical nurses, and medical technologists.

Comparison to Non-Federal Healthcare Employers

BLS Occupational Employment and Wages May 2016

Employment estimate and mean wage estimates nationally for Audiologists:

Employment	Mean hourly wage	Mean annual wage – all levels
12,310	\$38.12	\$79,290

Current GS 12-13 Pay Scale - Lowest Locality Pay:

GS Level	Step 1 Annual (Entry Level)/Hourly	Step 5 Annual/Hourly	Step 10 Annual/Hourly
12	\$72,168 / \$ 34.58	\$81,792 / \$39.19	\$93,821 / \$44.95
13	\$85,816 / \$41.12	\$97,258 / \$46.60	\$111,560 / \$ 53.45

Historically, recruitment of audiologists in VA has not been a problem. There are no current recruitment and retention problems, or competitive comparisons with non-Federal employment, to substantiate a rationale for legislative changes to convert audiologists to Title 38 positions at this time.