

FAQ: Using the ‘Three Considerations’ Rule

What is the Three Considerations Rule?

The Three Considerations Rule is a federal hiring provision that allows an agency to remove a candidate from further consideration after they have been considered for selection three separate times for the same position, provided valid selections were made each time.

This authority helps agencies streamline hiring processes while ensuring fairness and compliance with competitive hiring rules. This provision may only be used when the agency is making selections using the rule of many procedures under delegated examining and in the excepted service. It cannot be used when category rating procedures are used.

This rule applies under:

- 5 U.S.C. § 3318(e), and
- 5 CFR § 332.405 (Competitive Service)
- 5 CFR Part 302 (Excepted Service)

When Can a Candidate Be Removed from Consideration Using the Three Considerations Rule?

A candidate may be removed from future consideration at an agency provided:

1. The Candidate was referred

The candidate must have been referred, given bona fide consideration and not selected three times for the same or a substantially similar position. The hiring manager signs a written statement documenting the candidate received three considerations and recommending the candidate be removed from further consideration. The Human Resources (HR) Director at the servicing personnel office approves the hiring manager’s request.

2. Valid Selections Were Made

In each instance, a valid selection (i.e., someone else was chosen using proper hiring practices) must have occurred in lieu of the candidate.

3. Same Position

The positions in question must be the same in title, series, and grade for the three non-selections to be considered under this rule.

What is a Bona Fide Consideration in the Context of Federal Hiring?

Under the final rule, a bona fide consideration is particularly relevant to the “three considerations rule” (5 CFR 332.405). To ensure this removal is valid, the final regulation requires documentation that demonstrates:

- The Hiring Manager reviewed the candidate’s application.

- The Hiring Manager documents the candidate received three legitimate considerations for appointment. The HR Director at the servicing personnel office approved the Hiring Manager's request.
- Each consideration was tied to an actual documented vacancy at the time. A "consideration" is supposed to be connected to an actual attempt to fill a position—not a hypothetical future job and not a roster exercise with no real staffing need.

Practically, that means each consideration should be traceable to something like:

- a specific vacancy announcement / recruitment action,
- a specific certificate (referral list) issued for that action,
- and a documented selection/non-selection decision process for filling that vacancy (or vacancies).

How should "same position" be determined?

Agencies must evaluate whether the three non-selections relate to positions that are:

- In the same occupational series;
- At the same grade level; and
- Substantially alike in duties, KSAs, and work environment.

This consistency is essential to justify applying the rule and removing the candidate from further referral.

Can a candidate be removed from multiple referral lists or hiring actions using three considerations?

Yes, provided the removal is:

- Based on three valid non-selections for similar positions;
- Applied only after preference considerations have been resolved; and
- Properly documented in each related hiring action or certificate.

Agencies must not use the three considerations rule to exclude candidates from unrelated hiring efforts or future announcements without documentation.

How should the removal from consideration be documented?

The decision to remove a candidate under the three considerations rule must be documented.

- Documentation should include a statement by the Hiring Manager that the applicant lacks specific skills(s) or attribute(s) needed to perform the work of the position being filled, the dates, positions, and certificates involved in each of the three bona fide considerations and confirm that valid selections were made.

All documentation must be retained in the case file.

Who authorizes or reviews decisions under this rule?

- The HR office or delegated examining unit (if applicable) typically initiate and document the removal;
- Supervisors or selecting officials may recommend removals based on consistent non-selection history.

When can an agency begin removing candidates from further consideration using the three considerations rule?

Starting with the fourth selection from a certificate, an agency may remove candidates from further consideration. Selections one to three can be counted from different certificates of the same position, title, series and grade and must be documented in the case file before removing a candidate from consideration.

How many candidates can an agency remove at that point?

Agencies may remove up to the number of expected selections remaining on that certificate (planned total selections minus selections already made). For example, if an agency plans to make **6** total selections from a certificate and has already made **3**, starting with the **4th** selection it may remove **up to 3** candidates (the selections remaining).

How is veteran's preference impacted by the three considerations rule?

The three considerations rule does not eliminate an agency's responsibility to properly afford veterans' preference on a properly ranked certificate. However, once an eligible candidate (including a preference eligible) is given bona fide consideration and not selected three times, an agency may remove such eligible candidate (including a preference eligible) from further consideration.

What is the difference between a pass-over and a removal from consideration when using the three considerations rule?

Pass over procedures and the three considerations rule are two separate provisions. Pass over procedures only apply to applicants who are preference eligible veterans, whereas the three considerations rule applies to any applicant.

When do pass over procedures apply?

Pass over procedures apply when an agency wishes to select a lower ranked non-veteran instead of a preference eligible veteran. A hiring agency may invoke pass over procedures if the agency determines the preference eligible veteran lacks the qualifications to successfully perform the duties of the position being filled.

Is a pass over required for a preference eligible veteran who has been removed from further consideration under the three considerations rule?

No. Pass over procedures are not required for a preference eligible veteran who has been removed from further consideration under the three considerations rule. In this situation, the veteran has already been removed from further consideration.

Should an agency remove the names of preference eligible veterans from a certificate of eligibles if they have been removed from further consideration under the three considerations rule?

No. Their names remain on the certificate. Once an eligible (including a preference eligible) has received three bona fide considerations for the same position—counted only when a selection is made—the hiring manager may discontinue further consideration for that vacancy and should annotate the certificate accordingly (e.g., “Considered three times—no further consideration for this vacancy.”). Beyond the required three, consideration is at the hiring manager’s discretion, subject to applicable pass over rules and documentation when a preference eligible is bypassed.

Are other hiring managers required to consider preference eligible candidates who have been removed from further consideration by an initial hiring manager?

No. Other hiring managers are not required to consider a preference eligible who has been documented as having already received three considerations by the initial hiring manager. They are free to consider or reject them. Thus, a hiring manager may select a preference eligible candidate who was removed from consideration by another hiring manager.

How far back can we count a prior “consideration” under the three-considerations rule?

There’s no fixed look-back period in the regulation. If the candidate received bona fide consideration for the same position—defined as the same title, series, and grade—a hiring manager may count those earlier considerations from the same or different certificates so long as your agency can document them. Agencies should consider a reasonable approach that takes into account if an applicant has gained additional skills or experience since their last removal.

Do “considerations” count if the applicant was referred on a merit promotion, direct hire, or category rating certificate?

No. Only considerations from rule of many recruitments will count towards the three-considerations rule.

Example of Using the Three Considerations Rule

If an agency is filling 10 positions and has a certificate with 30 eligible candidates, then beginning with the fourth selection the agency may remove up to 7 individuals (either preference eligibles or non-preference eligibles) who have received bona fide considerations in accordance with § 332.405. The following example goes through the steps an agency may take when making multiple selections. In this example, the agency issued the following certificate of eligibles based on a cut-score of 95. The agency expects to make 10 selections from this certificate and conducts interviews with all 30 eligibles

Certificate of Eligibles		
Candidate	Score/VP	Action
1.	98.0 CP	Selected (1)
2.	98.0 CPS	Declined
3.	98.0 TP	Removed - 3 considerations (1 of 7)
4.	98.0 TP	Selected (2)
5.	98.0 TP	Selected (3)
6.	97.0 TP	Declined
7.	97.0 NV	Removed - 3 considerations (2 of 7)
8.	97.0 NV	Selected (4)
9.	96.0 TP	Declined
10.	96.0 TP	Declined
11.	96.0 TP	Declined
12.	96.0 TP	Selected (5)
13.	96.0 TP	Selected (6)
14.	96.0 NV	Selected (7)
15.	96.0 NV	Selected (8)

16.	96.0 NV	Selected (9)
17.	96.0 NV	Declined
18.	96.0 NV	Removed - 3 considerations (3 of 7)
19.	95.0 TP	Removed - 3 considerations (6 of 7)
20.	95.0 TP	Removed - 3 considerations (7 of 7)
21.	95.0 TP	Removed - 3 considerations (4 of 7)
22.	95.0 TP	Selected (10)
23.	95.0 TP	Removed - 3 considerations (5 of 7)
24.	95.0 TP	
25.	95.0 NV	
26.	95.0 NV	
27.	95.0 NV	
28.	95.0 NV	
29.	95.0 NV	
30.	95.0 NV	

Any of the veterans' preference eligibles referred on the certificate may be selected. In this example, eligibles 2 and 6 decline the position. In the first three rounds of selections, the agency selects eligibles 1, 4, and 5.

Certificate of Eligibles		
Candidate	Score/VP	Action
1.	98.0 CP	Selected
2.	98.0 CPS	Declined
3.	98.0 TP	
4.	98.0 TP	Selected
5.	98.0 TP	Selected
6.	97.0 TP	Declined
7.	97.0 NV	
8.	97.0 NV	
9.	96.0 TP	
10.	96.0 TP	
11.	96.0 TP	
12.	96.0 TP	
13.	96.0 TP	
14.	96.0 NV	

15.	96.0 NV	
16.	96.0 NV	
17.	96.0 NV	
18.	96.0 NV	
19.	95.0 TP	
20.	95.0 TP	
21.	95.0 TP	
22.	95.0 TP	
23.	95.0 TP	
24.	95.0 TP	
25.	95.0 NV	
26.	95.0 NV	
27.	95.0 NV	
28.	95.0 NV	
29.	95.0 NV	
30.	95.0 NV	

The agency has now considered all eligibles in each of its earlier selection decisions, that is, three times. The agency has 7 positions remaining to fill; it may remove up to a total of 7 eligibles from the certificate when making the remaining selections. The agency must document that each candidate's application was reviewed. The agency must also document that a candidate received three considerations prior to removal. Candidates 3 and 7 are removed from consideration, and the hiring

manager documents the reason(s) to remove the candidates. At this point, the agency may consider eligible 8 or any of the veterans' preference eligibles remaining. The agency selects eligible 8 for the fourth selection.

Certificate of Eligibles		
Candidate	Score/VP	Action
1.	98.0 CP	Selected
2.	98.0 CPS	Declined
3.	98.0 TP	Removed - 3 considerations (1 of 7)
4.	98.0 TP	Selected
5.	98.0 TP	Selected
6.	97.0 TP	Declined
7.	97.0 NV	Removed - 3 considerations (2 of 7)
8.	97.0 NV	Selected
9.	96.0 TP	
10.	96.0 TP	
11.	96.0 TP	
12.	96.0 TP	
13.	96.0 TP	

14.	96.0 NV	
15.	96.0 NV	
16.	96.0 NV	
17.	96.0 NV	
18.	96.0 NV	
19.	95.0 TP	
20.	95.0 TP	
21.	95.0 TP	
22.	95.0 TP	
23.	95.0 TP	
24.	95.0 TP	
25.	95.0 NV	
26.	95.0 NV	
27.	95.0 NV	
28.	95.0 NV	
29.	95.0 NV	
30.	95.0 NV	

For the fifth selection, the agency may select any of the veterans' preference candidates. Candidates 9, 10, and 11 declined selections. The agency selects Candidate 12.

Certificate of Eligibles		
Candidate	Score/VP	Action
1.	98.0 CP	Selected
2.	98.0 CPS	Declined
3.	98.0 TP	Removed - 3 considerations (1 of 7)
4.	98.0 TP	Selected
5.	98.0 TP	Selected
6.	97.0 TP	Declined
7.	97.0 NV	Removed - 3 considerations (2 of 7)
8.	97.0 NV	Selected
9.	96.0 TP	Declined
10.	96.0 TP	Declined
11.	96.0 TP	Declined
12.	96.0 TP	Selected

13.	96.0 TP	
14.	96.0 NV	
15.	96.0 NV	
16.	96.0 NV	
17.	96.0 NV	
18.	96.0 NV	
19.	95.0 TP	
20.	95.0 TP	
21.	95.0 TP	
22.	95.0 TP	
23.	95.0 TP	
24.	95.0 TP	
25.	95.0 NV	
26.	95.0 NV	
27.	95.0 NV	
28.	95.0 NV	
29.	95.0 NV	
30.	95.0 NV	

For the sixth selection, the agency may select any of the veterans' preference eligibles. The agency selects candidate 13. The agency has determined that candidates 18, 21, and 23 have been considered 3 times and documents the hiring manager's reason(s) to remove the candidates. Candidates 18, 21, and 23 are removed from consideration.

Certificate of Eligibles		
Candidate	Score/VP	Action
1.	98.0 CP	Selected
2.	98.0 CPS	Declined
3.	98.0 TP	Removed - 3 considerations (1 of 7)
4.	98.0 TP	Selected
5.	98.0 TP	Selected
6.	97.0 TP	Declined
7.	97.0 NV	Removed - 3 considerations (2 of 7)
8.	97.0 NV	Selected
9.	96.0 TP	Declined
10.	96.0 TP	Declined
11.	96.0 TP	Declined
12.	96.0 TP	Selected
13.	96.0 TP	Selected
14.	96.0 NV	
15.	96.0 NV	

16.	96.0 NV	
17.	96.0 NV	
18.	96.0 NV	Removed - 3 considerations (3 of 7)
19.	95.0 TP	
20.	95.0 TP	
21.	95.0 TP	Removed - 3 considerations (4 of 7)
22.	95.0 TP	
23.	95.0 TP	Removed - 3 considerations (5 of 7)
24.	95.0 TP	
25.	95.0 NV	
26.	95.0 NV	
27.	95.0 NV	
28.	95.0 NV	
29.	95.0 NV	
30.	95.0 NV	

For selection seven, the agency may select candidates 14, 15, 16, 17, or any of the remaining veterans' preference eligibles. Candidate 17 declines selection. The agency selects candidate 14. Candidates 19 and 20 have been considered 3 times, and the hiring manager documents the reason(s) to remove the candidates. Candidates 19 and 20 are removed from consideration. At this point the agency has removed 7 eligibles from the certificate using the three considerations rule. For the remaining three selections the agency may not remove any additional eligibles based on the three considerations rule.

Certificate of Eligibles		
Candidate	Score/VP	Action
1.	98.0 CP	Selected
2.	98.0 CPS	Declined
3.	98.0 TP	Removed - 3 considerations (1 of 7)
4.	98.0 TP	Selected
5.	98.0 TP	Selected
6.	97.0 TP	Declined
7.	97.0 NV	Removed - 3 considerations (2 of 7)
8.	97.0 NV	Selected
9.	96.0 TP	Declined
10.	96.0 TP	Declined
11.	96.0 TP	Declined
12.	96.0 TP	Selected
13.	96.0 TP	Selected
14.	96.0 NV	Selected
15.	96.0 NV	

16.	96.0 NV	
17.	96.0 NV	Declined
18.	96.0 NV	Removed - 3 considerations (3 of 7)
19.	95.0 TP	Removed - 3 considerations (6 of 7)
20.	95.0 TP	Removed - 3 considerations (7 of 7)
21.	95.0 TP	Removed - 3 considerations (4 of 7)
22.	95.0 TP	
23.	95.0 TP	Removed - 3 considerations (5 of 7)
24.	95.0 TP	
25.	95.0 NV	
26.	95.0 NV	
27.	95.0 NV	
28.	95.0 NV	
29.	95.0 NV	
30.	95.0 NV	

For selections eight, nine, and ten, the agency may select candidates 15 or 16 and any of the remaining veterans' preference eligibles. The agency selects candidates 15, 16, and 22. Below is the complete certificate of eligibles.

Certificate of Eligibles		
Candidate	Score/VP	Action
1.	98.0 CP	Selected
2.	98.0 CPS	Declined
3.	98.0 TP	Removed - 3 considerations (1 of 7)
4.	98.0 TP	Selected
5.	98.0 TP	Selected
6.	97.0 TP	Declined
7.	97.0 NV	Removed - 3 considerations (2 of 7)
8.	97.0 NV	Selected
9.	96.0 TP	Declined
10.	96.0 TP	Declined
11.	96.0 TP	Declined
12.	96.0 TP	Selected
13.	96.0 TP	Selected
14.	96.0 NV	Selected
15.	96.0 NV	Selected

16.	96.0 NV	Selected
17.	96.0 NV	Declined
18.	96.0 NV	Removed - 3 considerations (3 of 7)
19.	95.0 TP	Removed - 3 considerations (6 of 7)
20.	95.0 TP	Removed - 3 considerations (7 of 7)
21.	95.0 TP	Removed - 3 considerations (4 of 7)
22.	95.0 TP	Selected
23.	95.0 TP	Removed - 3 considerations (5 of 7)
24.	95.0 TP	
25.	95.0 NV	
26.	95.0 NV	
27.	95.0 NV	
28.	95.0 NV	
29.	95.0 NV	
30.	95.0 NV	