



American Veterans Anti-Discrimination Initiative

By: Diane M. Zumatto, AMVETS, National Legislative Director

The AMVETS Vision: A world in which all American Veterans have unlimited employment opportunities, a world where all employers engage in self-analysis for the purpose of discovering and breaking down barriers to equal employment prospects for each and every American Veteran. In this world, employers willingly take *positive actions* to ensure that American Veterans are appropriately employed not simply because they make outstanding employees, but also out of respect for their service to this nation.

The AMVETS Goal: AMVETS is seeking protected status for all American veterans to give them every advantage in finding gainful employment. This nearly cost-neutral initiative would enhance veteran access and equity in employment opportunities by making employers more aware of the value of actively hiring veterans and providing legal recourse to veterans experiencing employment discrimination. Employment discrimination is the most important area in which veterans are at a disadvantage when compared to non-veterans.

The Issue: Fewer than 7 percent of Americans have ever served in the Armed Forces and less than one percent wears the uniform today. These figures suggest that veterans, taken as a group, are in the minority. While other minority groups enjoy certain protections and advantages under the law, those who have served and fought for their country currently enjoy no such comprehensive legal consideration. In fact, just the opposite is often true; frequently those who have served and sacrificed are at a disadvantage in comparison to their peers. Employment is often the first obstacle that veterans must overcome during their transition from the military to the civilian lifestyle.

Despite having served with honor around the world, when American Veterans transition from military to civilian employment, they generally enter the workforce years behind their high school or college classmates. While their contemporaries have: gone to or completed college, held internships and/or entered the workforce, established expertise in their fields, and built a professional network of contacts, those who have served, regardless of experience or rank, are often forced to begin their civilian careers at or near the bottom of the employment ladder. Despite the wealth of experiences veterans bring to the workforce, their time in the military is often not clearly understood or appreciated by civilian employers. Misperceptions about veterans greatly contribute to high levels of veteran un- or under-employment.

The second obstacle that veterans must overcome is the negative press about the effects and repercussions of prolonged wars, such as Post-Traumatic Stress (PTS), Traumatic Brain Injury (TBI) and other mental health issues affecting increasing numbers of returning veterans. There is a not uncommon perception of veterans as ‘ticking Time bombs’, ‘unstable and dangerous’ or ‘damaged goods’.

Additionally, the lingering ill-will towards Vietnam-era veterans and the infrequent, but no less reprehensible, reports of mayhem performed by a small number of American soldiers may unconsciously leave negative feelings in the hearts and minds of employers. Whether conscious or not, the sensational headlines and negative media coverage over the last decade of war cannot help but contribute to growing concerns and misinformed prejudices among prospective employers (see CNAS report - [Employing America’s Veterans: Perspectives from Businesses](#), Appendix IV).

When discussing veteran unemployment, it must be understood that this issue and its numbers are organic, rather than static; therefore over the course of the last decade of war, the number of unemployed veterans has varied over time.

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The third obstacle that veterans may have to overcome much more frequently than their civilian counterparts is the lack of professional licensing and/or credentialing required by certain professions (ie. emergency medical technicians, nurses, physicians, truck drivers, teachers, etc.). Even though military members engage in specialized ‘Advanced Individual Training’ programs as part of their indoctrination into the Armed Forces and even though they may have years of experience in their chosen fields, once they leave the military, they lack the required civilian documentation to continue practicing in their fields. Having to engage in often costly and time-consuming retraining programs in order to qualify for required licenses or certifications is not something that most civilians are ever faced with (unless they move from state to state).

AMVETS acknowledges that there are already numerous laws, policies and programs (which we applaud) in place whose intentions are to assist unemployed veterans, including, but not limited to: Uniformed Services Employment AND Reemployment Rights Act (USERRA); Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA); the Veterans Opportunity to Work Act (VOW Act); the Jobs for Veterans Act; Veterans Preference – a Dept. of Personnel Management Program; Hero2Hired – a Dept. of Defense Program; Hiring Our Heroes – a U.S. Chamber of Commerce Program; Veterans Employment Opportunity Act (VEOA);

Veterans Gold Card – a Dept. of Labor Program. The fact that there are so many laws/policies/programs dedicated to this issue clearly indicates that the problem of veteran unemployment does, in fact, exist.

The very existence of all these laws/policies/programs specifically targeted to assist veterans seeking employment in the civilian economy today, makes it even more difficult to understand and accept the staggering numbers of veterans, both male and female, unable to find living-wage jobs. Perhaps the biggest drawback to these laws/policies/programs, is that they tend to be very narrowly focused, so that, rather than comprehensively assisting veterans, they cover only very specific groups of veterans. This in itself is prejudicial; is one cohort of veterans more deserving than another? AMVETS believes that all veterans that are willing and able to work should be afforded every form of support and opportunity to become gainfully employed in the civilian workforce. Furthermore, in general these laws/policies/programs are often not enforced which hinders their ability to offer veterans any legal recourse in the face of discrimination.

It has been suggested to AMVETS that rather than creating a 'new' program or law that we seek to 'plug the gaps' in the plethora of existing laws. This is a commendable and sensible idea; however, AMVETS is not attempting to create anything new – we are, in fact, seeking to amend a currently existing law. Furthermore, AMVETS believes that it would be a better use of capital and human resources to 'plug the gap' in a law that would be comprehensive and cover all veterans rather than attempt to change a large number of narrowly focused laws.

In discussions with colleagues in and around the veteran's community, the solution of choice to the problem of veteran discrimination is USERRA; however it more commonly focuses on minimizing the disadvantages to individuals called to military service as well as ensuring reemployment following that service. Though USERRA offers individuals a form of recourse, it is unclear how effective this law is in dealing with veterans who may have been unemployed prior to their military service obligation. In any case, the shocking numbers of unemployed veterans indicates that this law is ineffective and that more needs to be done to rectify the situation.

In addition, the federal government has a policy of assisting veterans through the use of preferences in federal employment and requirements for affirmative action in the hiring of veterans by federal contractors. There are three main drawbacks with the federal veteran's preference provision:

1. not all veterans qualify since eligibility is based on very specific, narrow dates of service;
2. it applies only to federal employers and contractors – having no effect on Corporate America; and
3. according to personal experience, the policy is not consistently applied across the federal government.

AMVETS is promoting and pursuing the idea of protected status for veterans, a nearly cost-neutral option, in order to enhance veteran access and equity in employment opportunities; which is the single most important area in which veterans are at a disadvantage when compared to non-veterans. AMVETS believes that status as a protected category under the existing non-discrimination law would go a long way to ensure veteran success in an unfavorable civilian job market and it would also provide legal recourse for discrimination based on military or veteran status. While AMVETS heartily recommends the hiring of qualified veterans, it does not support any concept that seeks to endorse a "less qualified" applicant over a "better qualified" one simply because one is a veteran. AMVETS simply wants to ensure that no one who is or has defended this nation should have their military or veteran status used against them.

Finally, AMVETS is committed to eradicating all forms of invidious discrimination experienced by American veterans and is therefore dedicated to the promotion of protected status for our nation's heroes as acknowledgement of their many sacrifices on behalf of all Americans.

Background: President John F. Kennedy is the first president to officially endorse anti-discrimination legislation and issued an Executive Order 10925, on March 6, 1961, which set out the basics of this important legislation. This was followed not long after by the passage of the Civil Rights Act of 1964, which expanded the measures found in the previously mentioned Executive Order. In 1965, President Lyndon B. Johnson issued Executive Order 11246 which required federal contractors to hire without regard to race, religion and national origin. In 1968, gender was added to the growing anti-discrimination list.

AMVETS acknowledges that there are many programs and options currently in existence that were designed to assist veterans in finding employment. One of these programs is the Vietnam Era Veterans' Readjustment Assistance Act of 1974 which contains, among other things, limited affirmative action provisions. Another of these programs is the Rehabilitation Act of 1973, which deals with employment of disabled veterans. It seems clear, however, that these programs alone are not sufficient to meet the employment needs of veterans.

AMVETS endorses the concept that anti-discrimination programs that are properly designed and implemented, help to strengthen the national community, promote American economic well-being and maximize the strength of our great diversity.

Currently, if an active or reserve component veteran is declined employment due to his or her former military status or ongoing military obligations, he or she has no legal recourse to redress the situation.

Some of the prejudicial situations being experienced by veterans seeking employment include:

- Gaps in employment or evidence of numerous moves on a resume, which is not uncommon for military members/veterans, draws negative attention to an applicant and raises a red flag with employers;
- Concern of perspective employers, that their employees may be called up for lengthy, possibly repeated, deployments;
- Many qualified veterans, active Reservists and National Guardsmen are being turned away for positions because there is a disconnect between their military training/experience and the education/credentials/licensing requirements for particular occupations as determined by mainstream America;
- There is a growing disconnect between the less than 7 percent of our nation's veteran/actively serving population and the rest of America. The majority of civilian employers do not have a clear understanding of what the military does or the scope of the pertinent experience and responsibility veteran/military employees bring;
- Thanks to the extensive publicity generated during the last 10 years of war regarding the wounds of war, both physical and mental, employers are irrationally fearful of hiring someone who may be emotionally/mentally unstable, who may struggle to assimilate with non-veteran coworkers, who may be disabled and require accommodations including excused absences for on-going medical appointments, and who may be prone to possible violent outbursts in the workplace.

Recommendations: In acknowledgement of the tremendous sacrifices our veterans have made for this nation, Congress and the Administration should enact legislation to ensure that veterans enjoy the same legally mandated, non-discriminatory access to education, employment, and training opportunities as other deserving individuals;

AMVETS understands that employment quotas are not legal in the United States and this initiative does not endorse that concept; therefore AMVETS encourages Congress to use the same system to monitor and encourage employers to hire qualified veterans for available positions. In other words, employers need to be encouraged to adhere to the same procedures they are currently required to follow for other protected individuals. The addition of a new category to this existing law should cause little, if any, increase in workload for employers. AMVETS wants to ensure that no qualified veteran be denied employment and equality in all phases of the employment process (recruiting, interviewing, hiring, promoting, or establishing working conditions) based on their military/veteran status;

AMVETS further recommends that labor organizations not be allowed to deny membership to qualified veterans or discriminate against veterans in their apprentice training programs and employment agencies should not be allowed to discriminate against qualified veterans in making job referrals or in representing veterans;

Congress must require that all businesses with 100 or more employees meet suggested goals for the number of veterans they should employ. AMVETS suggests the following goals: 15 percent for the federal government, 10 percent for federal contractors/subcontractors and 5 percent for all others;

Congress should stipulate that for the purposes of this proposal, that 'veteran' be defined as any individual who is currently serving or has honorably served in the Armed Forces, to include members of both the Active and Reserve Components;

So as not to diminish the benefits available to deserving individuals currently protected under affirmative action, AMVETS recommends the utilization of weighted categories. This would allow individuals meeting more than one affirmative action criteria the ability to combine all categories for which they qualify, making those individuals the most desirable.

Conclusion: In actively seeking a solution to the problem of veteran unemployment, AMVETS initially compiled a report on the current laws/policies/programs available to assist veterans. This report was reviewed and 'gaps' were sought with the thought that filling these 'gaps' in current laws, etc. might be the best and easiest solution to the problem. It was determined, however, that there were too many laws, etc. with too many 'gaps' and that something more comprehensive was needed. This situation, in part, led to our decision to advocate for amending the current non-discrimination law to include veterans.

Here too, AMVETS has chosen the most cost effective option to help alleviate the burden of veteran unemployment, by advocating for an amendment to an existing law, rather than the creation of an entirely new program. In examining current non-discrimination law, AMVETS identified a 'gap' and is currently attempting to fill it. At the very least, passage of this amendment, which would require the same type of reporting as for all other groups currently covered by the anti-discrimination law, would raise awareness among employers and encourage them to actively seek out veterans for employment.

The one and only objective AMVETS has in seeking this amendment to the non-discrimination law is to ensure the equitable creation of economic opportunity and security for all American Veterans. Recognizing the need for an inclusive national policy to ensure that American Veterans are fully integrated into the 21st Century workforce, AMVETS calls on our congressional leadership to bring about this change in federal law.

Appendix I: Previously Enacted EEO LAWS

The following is a list of federal laws related to EEO issues:

CIVIL RIGHTS ACT OF 1964, as amended

- Title VI prohibits discrimination on grounds of race, color, or national origin in federally assisted programs;
- Title VII prohibits discrimination on the grounds of race, color, religion, sex or national origin by employers or unions with 15 or more employees. The designation employer includes the government of the United States, corporations wholly owned by the United States, and state or political subdivisions thereof.

EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972

- This is an amendment to the Civil Rights Act of 1964, which adds sex and religion to the Title VII portion and extends Equal Employment Opportunity (EEO) to state, local and municipal organizations, all employment agencies (private and public) and to labor organizations.
- This Act empowers EEOC to bring civil action against any organization, which is alleged to be practicing discrimination.
- The Act also gives the right to an individual to take a complaint directly to a court of law.

PREGNANCY DISCRIMINATION ACT

- This law amended Title VII to make it illegal to discriminate against a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

CIVIL RIGHTS ACT OF 1991

- The Civil Rights Act of 1991 expands the protections afforded individuals under the Civil Rights Act of 1964. It provides for damages for intentional discrimination and unlawful harassment in the workplace and codifies the concepts of "business necessity" and "job related" as enunciated in various Supreme Court decisions.
- Additionally, it confirms statutory authority and provides guidelines for disparate impact suits under Title VII of the Civil Rights Act of 1964 and in response to recent Supreme Court decisions, expands the scope of relevant civil rights statutes.

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

- This Act prohibits arbitrary discrimination against persons 40 years of age or older.

REHABILITATION ACT OF 1973

- This Act sets the standards for promoting, expanding, and assisting in employment opportunities for the handicapped in all programs or activities receiving Federal financial assistance. Sections 503 and 504 provide for the prohibition of discrimination against qualified handicapped individuals. The Office of Federal Contract Compliance Programs (OFCCP), U. S. Department of Labor, enforces section 503. Section 504 is enforced by the agency providing the federal funds in question. [29 USC §793](#)

EQUAL PAY ACT OF 1963

- This Act provides that an employer may not discriminate on the basis of sex by paying employees different wages for doing equal work on jobs requiring equal skill, effort, and responsibility, and which are performed under similar working conditions in the same establishment. The U. S. Equal Employment Opportunity Commission (EEOC) enforces this Act.

AMERICANS WITH DISABILITIES ACT OF 1990, AS AMENDED BY THE AMERICANS WITH DISABILITIES AMENDMENTS ACT OF 2008

- Congress enacted the Americans with Disabilities Act of 1990 ("the ADA") to eliminate discrimination against individuals with disabilities in the areas of employment, public

accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public service.

- Title I of the ADA prohibits discrimination in employment against individuals with disabilities and establishes the standards governing an employer's affirmative duty to accommodate an individual with a disability.
- Title II of the ADA prohibits discrimination against individuals with disabilities by state and local governments. The ADA Amendments Act of 2008 broadens the coverage of "disability" and thereby brings more individuals under the protection of the law. EEOC will issue new regulations under this Act.

(USERRA)

- USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services. The U. S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.

GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008

- This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e. an individual's family medical history).
- The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Additional Laws & Regulations on This Topic from Dept. of Labor Website

Laws

[E.O. 11246](#)

Executive Order 11246

[38 USC §4212](#)

Vietnam Era Veterans' Readjustment Assistance Act of 1974

Regulations

[41 CFR Part 60-1](#)

Obligations of Contractors and Subcontractors

[41 CFR Part 60-2](#)

Non-Discrimination Programs

[41 CFR Part 60-250](#)

Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans and Veterans of the Vietnam Era

[41 CFR Part 60-741](#)

Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals with Disabilities

Appendix II: Current Non-Discrimination Categories

- Race
- Color
- Creed
- Sex
- Age
- National Origin
- Marital Status
- Physical or Mental Disability
- Sexual Orientation
- Genetic Information

Appendix III: Current Requirements under Non-Discrimination Law

The Department of Labor's website says: For federal contractors and subcontractors, non-discrimination must be taken by covered employers to recruit and advance qualified minorities, women, persons with disabilities, and covered veterans. Non-discrimination actions include training programs, outreach efforts, and other positive steps. These procedures should be incorporated into the company's written personnel policies. Employers with written non-discrimination programs must implement them, keep them on file and update them annually.

Appendix IV: Supporting Online Veteran Unemployment Resources

Recent Trends in Veteran Unemployment as Measured in the Current Population Survey and the American Community Survey

http://www.rand.org/pubs/technical_reports/2008/RAND_TR485.pdf

Military unemployment is growing concern

<http://www.militarytimes.com/multimedia/video/?bctid=1484219878001#/Military+unemployment+is+growing+concern/1484219878001>

As nation's jobless rate dips, veterans' unemployment rises for second straight month

http://www.washingtonpost.com/blogs/checkpoint-washington/post/as-nations-jobless-rate-dips-veterans-unemployment-rises/2011/11/04/gIQAkHD9IM_blog.html

Meeting the Needs of Veterans In Today's Labor Force

http://jec.senate.gov/public/index.cfm?a=Files.Serve&File_id=c1d47e4b-128b-41a4-afe1-2f3ac509ecbc&SK=D6745FB5F69B4F41540BB9A2D1A33DF9

Unemployment for Young Vets: 30%, and Rising

http://www.businessweek.com/finance/occupy-wall-street/archives/2011/11/the_vets_job_crisis_is_worse_than_you_think.html

The "Dangerous" Veteran: An Inaccurate Media Narrative Takes Hold

<http://www.blogs.va.gov/VAntage/6026/the-%E2%80%9Cdangerous%E2%80%9D-veteran-an-inaccurate-media-narrative-takes-hold/>

Veteran Struggles with PTSD and Negative Perceptions in the Workforce

http://usnews.nbcnews.com/_news/2012/09/17/13869199-i-have-ptsd-so-what-army-veterans-essay-resonates?lite&ocid=msnhp

Veterans Fight 12.4 Percent Unemployment Rate

http://www.huffingtonpost.com/2011/08/05/unemployed-veterans-fight_n_919242.html

The Business Case For Hiring A Veteran

http://vets.syr.edu/_assets/researchdocs/employment/The%20Business%20Case%20for%20Hiring%20a%20Veteran%203-6-12.pdf

Vet denied apartment because of military service?

<http://video.foxnews.com/v/1674956398001/vet-denied-apartment-because-of-military-service/>

Weather Channel Anchor Says She Was Fired Over Military Service

<http://radio.foxnews.com/toddstarnes/top-stories/weather-channel-anchor-says-she-was-fired-over-military-service.html>

The 2012 Veteran Talent Index – Military.com

<http://www.military.com/veteran-jobs/career-advice/job-hunting/2012-veterans-talent-index.html?ESRC=mrvr.nl>

Veterans Talent Index Brought to you by Monster Insights May 2012: *Insights and Analysis from Veteran Professionals, Recruiters and Hiring Managers*

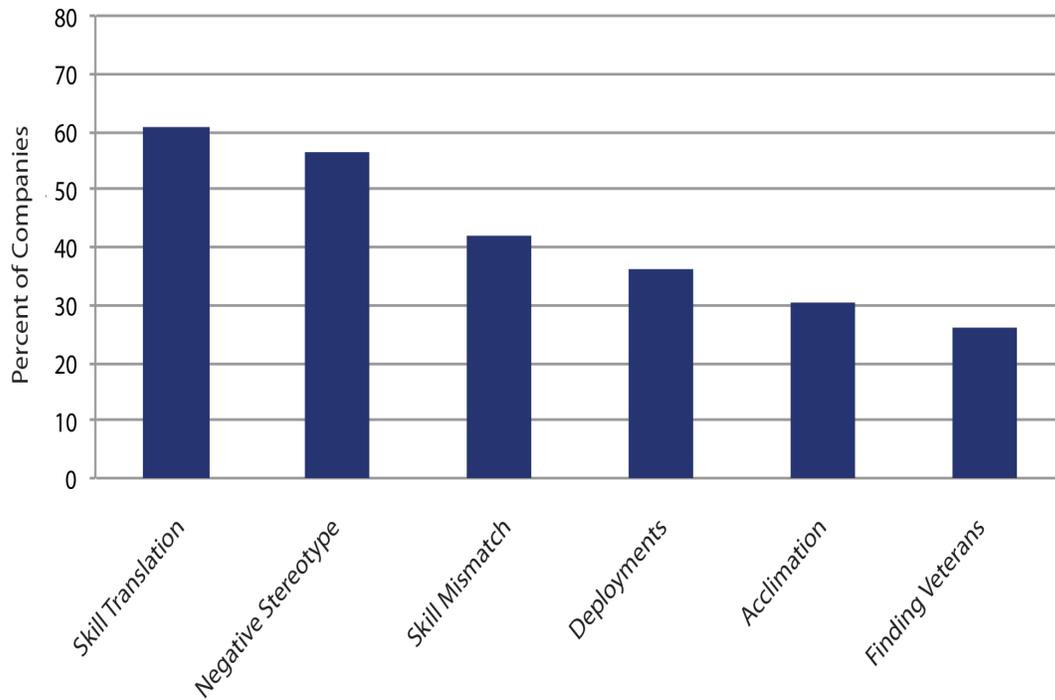
http://www.about-monster.com/sites/default/files/MonsterVeteransTalentIndex_May2012.pdf

Getting Veterans Back to Work: Bridging the Gap

http://www.about-monster.com/sites/default/files/VeteransEmployment_infographic_RGB.pdf

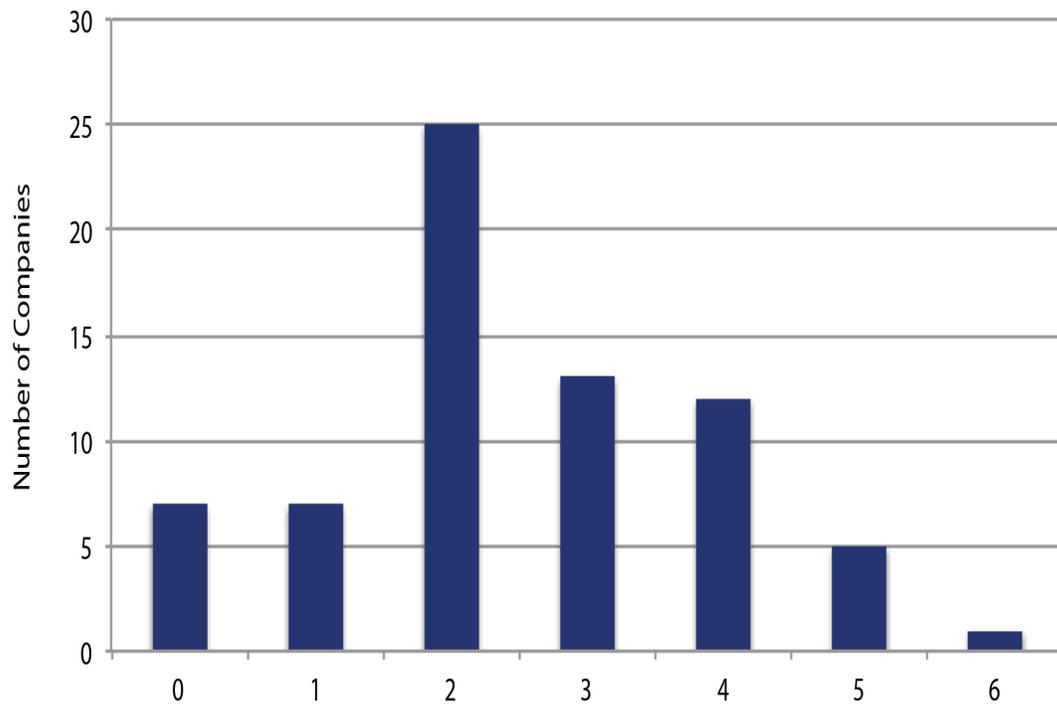
Appendix V: Graphs from Center for a New American Security Report on Veteran Employment

FIGURE 4: WHY COMPANIES MIGHT NOT HIRE VETERANS



Source: Veteran employment interviews, Center for a New American Security.

FIGURE 5: NUMBER OF CONCERNS EACH COMPANY MENTIONED REGARDING HIRING VETERANS



Source: Veteran employment interviews, Center for a New American Security.