

QUESTIONS AND ANSWERS ABOUT VETERANS' PREFERENCE IN EMPLOYMENT IN FLORIDA

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INTRODUCTION

One of the most misunderstood entitlement programs for veterans is veterans' preference in employment under Florida law. As a result, veterans often pose questions like these:

- What is veterans' preference?
- Who is eligible for veterans' preference?
- What are numerically based and non-numerically based appointments?
- Can I use my veterans' preference more than once?
- When a reduction-in-force occurs, will veterans' preference protect me?
- Where can further information on state, county and municipal employment opportunities for preference eligibles be obtained?

This publication will attempt to answer these and other questions you may have about this important benefit.

HISTORY

Throughout our history, America's war veterans have usually received some form of recognition for their military service. To this end, it became the policy of the Florida Legislature to provide preference and priority in the hiring practices of this state and its political subdivisions.

Florida laws relating to veterans, commonly referred to as veterans' preference, were enacted to provide selected military veterans with an employment advantage in recognition of their sacrifices for the nation, and also as some small compensation for having deferred their education and civilian careers.

Veterans' preference in Florida evolved after World War II with the passing in 1949 of Florida Statutes 295.06 and 295.07, which gave "preference in civil service, merit system and other competitive examinations" and "preference in appointment, reinstatement and reemployment" respectively. Additional sections of Chapter 295 defined who would receive preference and how the benefit was to be administered. The Florida statute closely followed the passage of similar federal legislation.

The 1949 statute, together with numerous revisions, administrative rulings and District Court of Appeal decisions, continues to be Florida's basis for granting veterans' preference with the state and its covered political subdivisions.

WHO IS ELIGIBLE FOR VETERANS' PREFERENCE?

Many people believe that anyone who served in the military is eligible for veterans' preference, or that only those who served in the Armed Forces are eligible for veterans' preference in public employment. Neither is quite true. Therefore, we will refer to those who are eligible as preference eligible. In addition, the veterans' preference law covers state government and all its political subdivisions, including counties, municipalities, special districts, public universities and community colleges. However, certain positions are excluded from the law subject to review by an administrative body, the Public Employees Relations Commission (PERC). In addition, veterans' preference is only available to Florida residents. **Chapter 295.07(3) F.S.**

There are five veterans' preference categories: (1) veterans with a service-connected disability which is compensable under public laws administered by the United States Department of Veterans Affairs (DVA); (2) the spouse of any veteran with a permanent and total service connected disability; (3) any veteran of any war who served one day on active duty during a wartime period, and any veteran who served honorably but who has not met the criteria for the award of a campaign or expeditionary medal for service in Operation Enduring Freedom or Operation Iraqi Freedom, qualifies for preference in appointment, effective July 1,

2007; (4) the unremarried widow or widower of a veteran who died as a result of a service-connected disability; (5) any veteran who has served in a qualifying campaign or expedition for which a campaign badge has been authorized. Any Armed Forces Expeditionary Medal is qualifying for veterans' preference. The Global War on Terrorism Expeditionary Medal also qualifies for veterans' preference consideration. **Chapter 2003-42, Laws of Florida.** Active duty for training is not covered for veterans' preference purposes. **F.S. 295.07.**

Specific questions regarding preference eligibility, including required documentation, should be referred to the Florida Department of Veterans' Affairs (FDVA), 11351 Ulmerton Rd., Rm. 311-K, Largo, FL, 33778. The telephone number is (727) 518-3202.

ARE MILITARY RETIREES CONSIDERED PREFERENCE ELIGIBLE?

Florida law affords military retirees who are retired based on longevity (usually after 20 years) veterans' preference in numerically based personnel systems, i.e., those personnel systems which utilize an examination or scored systems as the sole criteria for selection, and non-numerically based personnel systems. **F.S. 295.08; Chapter 98-33, Laws of Florida.**

WHAT ARE NUMERICALLY BASED APPOINTMENTS?

Numerically based personnel systems utilize an examination or scored system as the sole criteria for selection. Employment preferences, where numerically based examinations are used as a tool for selection, consist of adding 10 points to the score of disabled veterans and spouses of disabled or missing veterans and 5 points to the score of other preference eligible applicants. Where the highest possible examination score is other than 100, then 10 percent or 5 percent shall be added to the applicants respective score to give the preference eligible applicant the equivalent of 10 points or 5 points on a scale of 100.

Persons eligible to receive a 10-point preference where service-connected disabilities have been rated by the DVA or the Department of Defense to be 30 percent or more shall be placed at the top of the appropriate register or employment list in the rank order of their augmented ratings. In a numerically based appointment scheme, placement at the top of the register or employment list requires that absolute preference be given to the veteran, and he or she therefore must be given the job. However, certain classes of positions are **exempt** from **absolute preference** for veterans with a 30 percent or more disability rating. **Absolute preference** will not apply to positions when a numerically based selection process is **not** used. **F.S. 295.08.**

Non-numerically based appointments: In all covered positions from which an examination is not used to determine the qualifications for employment, preference in appointment and employment shall be given to eligible applicants provided they possess the minimum qualifications necessary for the discharge of the duties involved. Preference in appointment and employment in a non-numerically based system requires that a preferred applicant be given **special consideration at each step of the employment selection process** but does not require the employment of a preferred applicant over a non-preferred applicant who is the most qualified person for the position. For non-numerically based positions, military retirees are to be given special consideration at each step of the selection process, but also do not have to be hired over more qualified non-veterans. **F.S. 295.085.**

REINSTATEMENT OR REEMPLOYMENT; PROMOTION PREFERENCE

When an employee in a covered position leaves employment of the state or its political subdivisions for the purpose of serving in the Armed Forces of the United States and is separated therefrom with an honorable discharge, the state or its political subdivision must reinstate or reemploy such persons under the following conditions:

- Reinstatement or reemployment is made to the same or to an equivalent position.
- Reinstatement or reemployment is made within one year of the date of separation from the military service or, in the case of extended active duty, within one year of the date of discharge or separation subsequent to the extension.

Persons reinstated or reemployed under this law shall be awarded preference in promotion, and shall be promoted ahead of all other employees who are as well or less qualified for the position. **Eligibility for preference in promotion shall apply only to a veteran's first promotion after reinstatement or reemployment, without exception. F.S. 295.09.**

PREFERENCE IN RETENTION

In a reduction-in-force, each employee is in direct competition with all other employees engaged in similar work, in the same pay grade, and serving under similar conditions. Among competing employees, the order of separation is determined by type of appointment, veterans' preference, length of employment, and performance ratings.

In all covered positions where layoffs are necessitated, special consideration in the retention of employees shall be given to those preference eligible persons

included under the law. In the event that a point system is not utilized by the covered employer, the employer must demonstrate how special consideration was afforded in the retention process. **F.S. 296.07**

COMMENCEMENT OF PREFERENCE IN APPOINTMENT

A veterans' preference claim must be indicated by the applicant on the employment application form. The veterans' preference claim is placed in the employee's personnel file upon appointment to a position to document utilization of veterans' preference.

Veterans' preference in perpetuity: A person eligible for veterans' preference in appointment (defined at s. 295.07, FS) does **not** forfeit employment preference eligibility once that veteran or eligible spouse of the veteran has been employed by a state agency or any political subdivision of this state (HB 699). Effective July 1, 2007, **HB 699** also restores veterans' preference in employment for all categories of protected individuals previously employed by a state agency or any political subdivision of this state.

ENFORCEMENT OF PREFERENCE; ADMINISTRATIVE REVIEW

An applicant for veterans' preference who believes he or she was not afforded employment preference may file a complaint with the Florida Department of Veterans' Affairs at the Mary Grizzle Office Building, 11351 Ulmerton Rd., Rm. 311-K, Largo, FL, 33778. The complaint must be filed within 21 calendar days of the applicant receiving notice of the hiring decision made by the employing agency or within three months of the date the application is filed with the employer if no notice is given. Because the employer is not required to provide notice of nonselection to the applicant, it is the responsibility of the preferred applicant to maintain contact with the employer to determine if the position has been filled. In a complaint action, if the preference eligible applicant is not satisfied with the department's findings or the employer's proposed action to resolve the complaint is unsatisfactory, the applicant has the right to petition the Public Employees Relations Commission for a hearing. The Florida Department of Veterans' Affairs, however, does not provide legal assistance in the appeal process. **F.S. 295.11.**

In the event the veteran prevails in his/her veterans' preference complaint and appeal to the Public Employees Relations Commission, the Commission may issue an order to compensate the veteran for loss of wages, reasonable attorney fees and costs incurred in having to appeal to the Commission. Attorney fees and costs are capped at \$10,000 per case.

In the event that the Florida Department of Veterans' Affairs finds that a veterans'

preference complaint lacks merit and the Public Employees Relations Commission determines that there is a complete lack of a justifiable issue of fact or law, the case may be dismissed without holding a hearing. **Chapter 295.11(4), F.S.**

There is no specific form to file a complaint. The complaint should be typed or legibly written and provide sufficient details concerning the employer, position and veteran status so the department can initiate appropriate action.

WHERE CAN PREFERENCE ELIGIBLES GET FURTHER INFORMATION ON EMPLOYMENT OPPORTUNITIES?

Individuals interested in working for the State of Florida or any public employer in the state should contact the Human Resources (HR) department or the personnel office of the employer for assistance. Also, the local *One Stop Center/Work Force Board* and The Agency for Workforce Innovation can provide preference eligible applicants with information on local and state employment opportunities.

When completing an employment application, contact the HR representative and request a copy of the classification specification or the position description for the announced vacancy. This document will provide helpful information in determining the knowledge, skills, abilities and experience required for the position. The department also maintains offices at VA Medical Centers, Outpatient Clinics and State Veterans' Homes throughout Florida to assist veterans and their survivors.

FDVA OFFICES

FDVA Executive Office
The Capitol, Suite 2105
400 South Monroe
Tallahassee, Florida
32399-0001
(850) 487-1533

FDVA Administrative Office
11351 Ulmerton Rd., Ste. 311-K
Largo, FL 33778-1630
(727) 518-3202

FDVA Benefits and Assistance
9500 Bay Pines Blvd., Rm. 214
Bay Pines, FL 33744
(727) 319-7400

Baldomero Lopez State
Veterans' Nursing Home
6919 Parkway Blvd.
Land O Lakes, FL 34639
(813) 558-5000

Clifford Sims State
Veterans' Nursing Home
4419 Tram Rd.
Springfield, FL 32404
(850) 747-5401

Douglas Jacobson State
Veterans' Nursing Home
21281 Grayton Terrace
Port Charlotte, FL 33954
(941) 613-0919

Emory L. Bennett State
Veterans' Nursing Home
1920 Mason Ave.
Daytona Beach, FL 32117
(386) 274-3460

Robert H. Jenkins Domiciliary
751 SE Sycamore Terrace
Lake City, FL 32025
(386) 758-0600

Sandy Nininger State
Veterans' Nursing Home
8401 W. Cypress Dr.
Pembroke Pines, FL 33025
(954) 985-4824

VAMC Bay Pines
10000 Bay Pines Blvd., Bldg. 22, Room 117
Bay Pines, FL 33744
(727) 398-6661 x5489

VAMC Gainesville
1601 Archer Rd., Rm. D-162
Gainesville, FL 32608
(352) 374-6029

VAMC Lake City
619 S Marion Ave., Rm. A-163
Lake City, FL 32025
(386) 755-3016 ext. 2070

VAMC Miami
1201 NW 16th St. Rm. A-213
Miami, FL 33125
(305) 325-3325

VAMC Tampa
13000 Bruce B. Downs Blvd., Rm. D-209 Bldg. #19
Tampa, FL 33612
(813) 972-2000 ext. 6589

VAMC West Palm Beach
7305 N. Military Trail
West Palm Bch. FL 33410
(561) 882-8204

VA OPC Daytona Beach
551 National Healthcare Dr.
Daytona Beach, FL 32114
(386) 323-7500 ext. 30122

VA OPC Ft. Myers
3033 Winkler Ave., Ste. 746
Ft. Myers, FL 33916
(239) 939-3939 ext. 6331

VA OPC Jacksonville
1833 Boulevard St.
Jacksonville, FL 32206
(904) 232-2751 ext. 3005

VA OPC New Port Richey
9912 Little Rd., Rm. D-116
New Port Richey, FL 34654
(727) 869-4227

VA OPC Oakland Park
5599 N. Dixie Hwy.
Oakland Park, FL 33334
(954) 229-7727

VA OPC Orlando
5201 Raymond St.
Orlando, FL 32803
(407) 599-1386

VA OPC Panama City Beach
6703 West Highway 98
Panama City Beach, FL 32407
(850) 636-7000

VA OPC Pensacola
312 Kenmore Rd., Rm. 1G242
Pensacola, FL 32503
(850) 471-7641

VA OPC Tallahassee
1607 St. James Court, #220
Tallahassee, FL 32308
(850) 878-0191, ext. 2032

VA OPC Viera
2900 Veterans Way, Ste. A700
Viera, FL 32940
(321) 637-3693