

## Veterans Preference

Chapter 295 of the Florida Statutes sets forth certain requirements for public employers to accord preferences, in appointment, retention and promotion, to certain veterans, as well as spouses and certain specified family members of veterans. The relevant portions of the law apply to “the state and its political subdivisions”. As part of veterans’ preference, employers may also choose to waive a postsecondary educational requirement, in whole or in part, for a position of employment for a current member of any reserve component of the United States Armed Forces or the Florida National Guard or a veteran who has been honorably discharged, where the person is otherwise qualified for the position.

### I. CATEGORIES OF PROTECTED INDIVIDUALS

Section 295.07, Florida Statutes, extends veterans’ preference to:

- A veteran with a service-connected disability that served on active duty in any branch of the US Armed Forces and received an honorable discharge, who is eligible for or receiving compensation, disability retirement, or pension under public laws administered by the U.S. Department of Veterans Affairs and the Department of Defense.
- The spouse of a veteran who cannot qualify for employment because of a total and permanent service-connected disability, or the spouse of a veteran missing in action, captured, or forcibly detained by a foreign government or power.
- A wartime veteran as defined in Fla. Stat. s. 101(14) who has served on active duty for at least 1 day during a wartime period, excluding active duty for training, and who was discharged under honorable conditions from the Armed Forces of the United States of America.
- The unremarried widow or widower of a veteran who died of a service-connected disability.
- Mother, father, legal guardian, or unremarried widow or widower of a member of the US Armed Forces who died in the line of duty under combat conditions, as verified by the US Department of Defense.
- A veteran as defined in Fla. Stat. s. 1.01(14). Active duty for training may not be eligible under this paragraph.
- A current member of any reserve component of the US Armed Forces or the Florida National Guard.

**Note:** To receive preference as a wartime veteran pursuant to section 295.07, Fla. Stat., a veteran must have served in a campaign or expedition for which a campaign badge or expeditionary medal has been authorized or a veteran who has served on active duty in a non-training status for at least one (1) day during one of the periods of wartime service listed below\*:

World War II: December 7, 1941, to December 31, 1946.

Korean Conflict: June 27, 1950, to January 31, 1955.

Vietnam Era: February 28, 1961, to May 7, 1975.

Persian Gulf War: August 2, 1990, to January 2, 1992.

Operation Enduring Freedom: October 7, 2001 and ending on the date thereafter prescribed by presidential proclamation or by law.

Operation Iraqi Freedom: March 19, 2003 and ending on the date thereafter prescribed by presidential proclamation or by law. Operation Iraqi Freedom has been renamed Operation

New Dawn effective September 1, 2010.

- The above is only a partial list, please see section 1.01(14) Fla.Stat., for a complete list of laws applicable for veterans' preference.

## **II. REQUIRED NOTICE BY EMPLOYERS**

Public employers must give notice in all announcements and advertisements of vacancies, that preference in appointment will be given to preference-eligible applicants, and application forms must inquire whether the applicant is claiming veterans' preference, and whether the applicant has claimed such a preference. The regulations provide that an applicant claiming preference is responsible for providing required documentation at the time of making application, but also state that the covered employer must inform applicants of the requirements for documentation.

## **III. PREFERENCE REQUIRED AT EACH STEP**

An eligible veteran is entitled to preference at each stage of the hiring process; however, the preference is not absolute.

## **IV. EMPLOYMENT PREFERENCE WHEN A NUMERICALLY BASED SELECTION PROCESS IS USED**

Employment preferences, where numerically based examinations are used as a device for selections, consists of adding 20(twenty) points to the score of the first category of applicants (disabled veterans and spouses of disabled or missing veterans). The second category which receives 15(fifteen) points is wartime veterans, unremarried widow or widower of a veteran who died of a service-connected disability, or mother, father, legal guardian, or unremarried widow or widower of a member of the US Armed Forces who died in the line of duty under combat-related conditions as verified by the US Department of Defense. The third category receives 10 points is a veteran honorably discharged or a current member of the reserves.

The rules provide that where the requisite points 20(twenty) points to individuals in the first category, 15(fifteen) in the second category and ten(10) in the third have been adjusted to test scores, the names of all the preference eligible applicants shall be placed on a register or employment list, beginning with those disabled veterans with disability ratings of 30 percent or more, and followed by all other preference eligible applicants in the order of their augmented ratings. The regulations state that "appointments to positions will be made from the appropriate register or employment list in the rank order of their augmented ratings."

## **V. PREFERENCE WHEN A NUMERICALLY BASED SELECTION PROCESS IS NOT USED**

Preference must be given at each step of the process to protected individuals provided such persons possess the minimum qualifications necessary to the discharge of the duties involved. The rule defines

“minimum qualifications” to mean a “specification” of the kinds of experience, training, education and/or licensure or certification that provides “appropriate job-related evidence that an applicant possesses the minimum required knowledge, skills, and abilities necessary to the discharge of the duties involved.”

## **VI. OTHER PROVISIONS REGARDING PREFERENCE**

Preference in layoffs- Where a layoff is necessitated in a covered position, similar preferences must be given to the covered employee in the retention process. In positions where workforce reduction plans or layoffs are necessitated, employers shall credit the amount of time the preference-eligible employee served on active duty in the U.S. Armed Forces, U.S. Armed Forces Reserves, or Florida National Guard as years of service with the employer for the purposes of determining seniority. Service shall be credited on a year-for-year and month-for-month basis. Records shall be maintained which document the manner of the retention and the propriety of the retention process and decision in accordance with federal and state laws.

Preference in reinstatement or reemployment- When an employee in a covered position leaves employment for the purpose of serving in the armed forces, he or she is entitled to reinstatement or reemployment upon release or honorable discharge from active military service within 1(one) year of the date of discharge or separation from the military service.

Promotion preference- Promotion preference applies only to a veteran’s first promotion after reinstatement or reemployment. If the reinstated or reemployed person is not promoted, the person retains promotion preference eligibility until the first promotion following reemployment is satisfied.

## **VII. EXEMPT POSITIONS**

Veterans’ preference is not applicable to positions filled by popular election (or persons appointed to fill a vacancy in such position); members of boards or commission; persons employed on a temporary basis without benefits; and positions that require the person be licensed by the Florida Bar.

## **IIX. ENFORCEMENT**

If an applicant claiming veterans’ preference for a vacant position is not selected, he/she may file a complaint with the

Florida Department of Veterans' Affairs (FDVA)  
Mary Grizzle Building, Suite 311K  
11351 Ulmerton Road  
Largo, FL 337781630.

A complaint must be filed within sixty days of the applicant receiving notice of the hiring decision made by the employing agency. Prior to filing a complaint, it is the responsibility of the preference-eligible

applicant to contact the designated Human Resources or other contact person at least one time after 45 days have passed from the final date for submitting an application or the interview date, whichever is later in time, if the applicant has not received notice of a hiring decision. The enforcement mechanism established by the regulations provide for an initial investigation by the Florida Department of Veterans' Affairs, followed by an evidentiary proceeding before the Public Employees Relations Commission if the matter cannot be earlier resolved.