



Florida Department of Veterans' Affairs
11351 Ulmerton Road, Suite 311
Largo, Florida 33778-1630
727-518-3202, Ext. 5511
veteranspreference@fdva.state.fl.us

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VETERANS' PREFERENCE

Section 295.07 et seq., Florida Statutes (F.S.) and
Chapter 55A-7, Florida Administrative Code (F.A.C.)

Frequently Asked Questions

Q: What is the definition of a "Veteran" for Veterans' Preference eligibility?

The term Veteran means a person who served in the active military, naval, or air service and who was discharged under honorable conditions.

Q: Who qualifies for Veterans' Preference?

Individuals eligible for Veterans' Preference (VP) are as follows:

1. Disabled Veterans who have served on active duty in any branch of the Armed Forces and who presently have an existing service-connected disability that is compensable under public laws administered by the Department of Veterans' Affairs (DVA), or are receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the DVA and the Department of Defense (DoD).
2. The spouse of a Veteran:
 - a) Who has a total and permanent service-connected disability and who, because of this disability, cannot qualify for employment; or
 - b) Who is missing in action, captured in line of duty by a hostile force, or detained or interned in line of duty by a foreign government or power.
3. A Veteran of any war, who has served at least one day during that wartime period as defined in section 1.01(14), F.S., or who has been awarded a campaign or expeditionary medal. Active duty for training shall not be allowed for eligibility under this paragraph.
4. The un-remarried widow or widower of a Veteran who died of a service-connected disability.
5. The mother, father, legal guardian, or un-remarried widow or widower of a service member who died as a result of military service under combat-related conditions as verified by the DoD.

6. A Veteran as defined in section 1.01(14), F.S. The term “Veteran” is defined as a person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions. “Active Duty for Training” does not qualify for VP.

7. A current member of any reserve component of the United States Armed Forces or The Florida National Guard.

Q: What are the Wartime periods?

- World War II: December 7, 1941 - December 31, 1946.
- Korean Conflict: June 27, 1950 - January 31, 1955.
- Vietnam Era: February 28, 1961 - May 7, 1975.
- Persian Gulf War: August 2, 1990 - January 2, 1992.
- Operation Enduring Freedom: October 7, 2001 – ongoing.
- Operation Iraqi Freedom: March 19, 2003 - August 31, 2010.
- Operation New Dawn: September 1, 2010 – ongoing.
- Service during a campaign or expedition for which a campaign badge has been authorized.

Q: What Character of Discharge must be on the DD Form 214 in order to qualify for Veterans’ Preference?

A Veteran MUST have been discharged with nothing less than an “HONORABLE” discharge.

Q: What if the applicant has multiple DD Form 214’s and one of them is less than Honorable?

To be eligible for VP an applicant must only have one eligible period of active duty in which they received an Honorable discharge. Therefore, the applicant will be entitled to VP and the other DD Form 214 will be irrelevant.

Q: What is a DD Form 215 and why is it important?

A DD Form 215 is a document attached to a Veteran’s DD Form 214 which declares that some information contained on the DD Form 214 has been corrected, changed or added. This can include corrections to service dates and additions of medals. More importantly for our purposes, this can include upgrades to character of service. The change will supersede the previous one on the DD Form 214.

Q: Do you have to be a Florida resident to qualify for Veterans’ Preference?

You do not have to be a Florida resident to qualify for VP.

Q: Do you have to be a U.S. citizen to use Veterans’ Preference?

No, any VP qualifying U.S. citizen or lawfully authorized alien worker in the United States can apply with a political entity in the State of Florida and request VP on their job application.

Q: How often can an applicant use Veterans’ Preference?

Eligible applicants can use VP as many times as they want when applying for positions. There is no expiration of VP for promotions as long as there is a qualifying event (active duty deployment) while in current position. An eligible employee for VP will always be able to utilize this benefit in the event of a Reduction in Force.

Q: What Veterans are guaranteed an interview?

When the decision to interview applicants is based on a non-numerical scoring system, all VP eligible applicants MUST be granted an interview.

Q: What points/percentages are applied for Veterans' Preference?

Employers who use a numerically based system for hiring must augment a VP eligible applicant's score. The amount that is awarded the applicant is based upon their eligibility category. The points/percentages are five (5), ten (10) or fifteen (15) and are allotted as follows:

- Disabled Veterans: **15 points/percent**
- The spouse of a Veteran with a total and permanent service-connected disability, missing in action, captured in line of duty by a hostile force, or Detained or Interned in line of duty by a foreign government or power: **15 points/percent**
- A Veteran of any war who has served at least one day during that wartime period or who has been awarded a campaign or expeditionary medal: **10 points/percent**
- The un-remarried widow or widower of a Veteran who died of a service-connected disability: **10 points/percent**
- The mother, father, legal guardian, or un-remarried widow or widower of a service member who died as a result of military service under combat-related conditions: **10 points/percent**
- A Veteran as defined in section 1.01(14), F.S.:” The term ‘Veteran’ means a person who served in the active military, naval, or air service and who was discharged under honorable conditions: **5 points/percent**
- A current member of any reserve component of the United States Armed Forces or The Florida National Guard: **5 points/percent**

Q: When are Veterans' Preference points/percentages applied?

1. After the applicant meets the required minimum qualifications for the position.
2. After applicant achieves a passing score on any required exams.

Q: When there is multiple testing during an application process, when is Veterans' Preference applied?

VP is applied at every stage of the process. There are two ways of augmenting scores when there are multiple tests (as long as the minimum passing score is achieved at each stage):

1. If the VP applicant earns a minimum passing score on an exam, their score is augmented with their eligible VP points and they are able to move forward to the next test where, if a minimum passing score is achieved, that score will also be augmented with their eligible VP points. This pattern continues through all tests toward a total score.
2. An applicant takes a series of tests and all of their scores are added together to reach a single cumulative score. That score is then augmented with their VP eligible points (as long as the minimum passing score is achieved at each stage).

Q: How to determine whether to augment a score by points or by percentages?

If the total possible score during testing is 100 points, an applicant’s score should be augmented with 5, 10 or 15 points. If the total possible score is less than or more than 100 points, an applicant’s score should be augmented by 5%, 10% or 15% of the total possible score. For example, if the total possible score during testing is 50, an applicant who is a 10 point/percent Veteran, should have their score augmented by 10% of the 50 (total possible score) - in this particular example 5 points.

Q: What happens when the selection is reduced to the top five scoring applicants and each applicant is considered equal?

If there is a VP eligible applicant in the group, and all applicants are EQUAL, the decision maker MUST select the VP eligible applicant. The decision maker is not able to skip over a VP applicant and select an equally qualified non-VP applicant.

If there is more than one VP applicant in the EQUALLY qualified group, the selection will be based upon how the applicants qualified for VP and their eligibility category. A qualifying disabled VP applicant will always be selected over any other category of applicants when EQUALLY qualified.

Q: What if a non-numeric system is used?

When an examination is not given, VP MUST be given at every step. At the very first step the VP eligible applicant, who meets the required minimum qualifications, is guaranteed an interview. However, the final selection of an applicant is based upon whom the decision maker believes is the most qualified applicant for a position.

If there are two VP candidates, who EQUALLY qualify, the selection shall be based upon how each candidate qualified for VP and their eligibility category. A qualifying disabled Veteran will always be selected over any other category of applicants when EQUALLY qualified.

However, when a VP eligible applicant is NOT selected, an upper management individual, who has the authority to reverse the decision, MUST review the selected applicant and the VP eligible applicant(s) and determine if the most qualified person was chosen. Employers should document this review process.

Q: What is the difference between a scored and non-scored interview?

Employment interviews can be either scored or non-scored. Scored interviews ensure applicants have equal opportunities to provide information and are assessed accurately and consistently because a rating scale is used. Therefore, points are augmented in a scored manner.

| Scored Interviews | Non-Scored Interviews |
|--|--|
| All applicants are asked the same questions in the same order. | Applicants may be asked different questions. |
| All applicants are evaluated using a common rating scale. | A standardized rating scale is not required. |
| Interviewers are in agreement on acceptable answers. | Interviewers do not need to agree on acceptable answers. |

Q: What documents must be shown in order to claim Veterans' Preference?

1. DD Form 214
 - a) Disabled Veterans shall also furnish a document from the DoD or the DVA establishing that the Veteran has a service-connected disability. The type of disability does not have to be disclosed in most cases.
2. Spouses of disabled Veterans shall furnish an Award Letter stating that they are entitled to benefits under Chapter 35 from the VA or the DoD. This confirms that the Veteran is totally and permanently disabled. The spouse should also have an identification card issued by the DoD; spouses shall also furnish a marriage certificate or other official evidence of marriage to the Veteran and a statement that the spouse is still married to the Veteran at the time of the application for employment.
3. An un-remarried widow or widower of a Veteran who died of a service-connected disability shall supply documentation from the VA indicating the cause of death.
4. Spouses of active duty member shall furnish the following documents:
 - a) DoD or DVA documentation certifying that the Veteran is listed as missing in action, captured in line of duty, or forcibly detained or interned in line of duty by a foreign government or power.
 - b) Evidence of marriage.
 - c) Statement that the spouse is married to the Veteran on active duty at the time of application for employment.
5. The mother, father, legal guardian, or un-remarried widow or widower of a deceased Veteran shall furnish a document from the DoD showing the death of service member while on-duty status under combat-related conditions or the DVA certifying the service-connected death of the Veteran, and shall further furnish evidence of marriage. The legal guardian shall show the court documents establishing the Guardianship.
6. Current Reserve members and National Guard members should provide a signed memorandum from their military supervisor confirming their Active status in the Reserves or Guard.

Q: What happens if the documents are not supplied?

If any of these documents are missing during the application process, the employer must make a reasonable effort to request the correct documents from the applicant.

Q: Who is eligible for Veterans' Preference in promotion?

In order to qualify for VP for promotion the eligible applicant must have a break in employment and be deployed/activated. After being discharged the applicant must return to the same public entity and be re-employed. The applicant must provide the employer a DD Form 214 or comparable documents, which show their discharge from Active Duty and their Character of Service. Active Duty for training does not qualify.

Q: What about Character of Discharge for Promotion?

A Veteran MUST have been discharged with nothing less than an "HONORABLE" discharge. If a DD 214 was not provided, the applicant should provide a copy of their orders, and a signed memorandum from their military supervisor confirming their Honorable service.

Q: When must Veterans' Preference for a promotional opportunity be used and can it be used multiple times?

The eligible applicant must request VP the first time a promotional opportunity becomes available, and it is only good for a single promotion. A single deployment cannot be used multiple times. One deployment entitles the applicant to one promotion only.

Q: If a VP eligible applicant has multiple deployments, will they be entitled to multiple promotions?

It depends. VP for promotions cannot be stacked. A VP eligible employee would have to be employed, then deployed/activated while in their current position, and then return to their position. The employee can then use VP for the next available promotion. In order to use VP for promotion again, the employee must have been deployed/activated while in their current (promoted) position.

Example: Joe is deployed/activated in his current position three (3) times. Joe applies his VP for promotional opportunity and is promoted. Even though Joe had three (3) deployments/activations BEFORE he was promoted, he cannot again claim VP for the next available promotional opportunity UNLESS Joe is deployed/activated again while in his promoted position.

An employee MUST be deployed/activated while in their current position and return to that position to be eligible for VP for a promotion.

Q: Is a Veterans' Preference eligible employee automatically guaranteed a promotion due to their deployment/activation?

No. At the time a promotional opportunity is available the employee must meet the required minimum qualifications and be considered the best-qualified candidate. If the employee is unsuccessful and fails to receive the promotion, the employee can apply for a promotion as many times as necessary, and apply their VP, until they succeed in receiving the promotion.

Q: Which employers must comply with the Veterans' Preference requirements of Section 295.07, F.S., and Chapter 55A-7, F.A.C.?

The Statutes and the Rules are applicable to Public entities such as the State and all their Agencies. They also apply to the State University System, State Community College System, the Florida School for the Deaf and Blind, and the State's political subdivisions including counties, cities, towns, villages, special school districts, special road and bridge districts, bridge districts, and all other districts in the State.

Q: Which positions qualify for Veterans' Preference and which are exempt from Veterans' Preference?

The following list identifies positions **that qualify**:

Positions of employment offered by the State as designated in Section 295.07(4)(a), and listed below:

- a) All positions under the state Career Service System.
- b) All positions under the University Support Personnel System of the State University System.
- c) All Career Service System positions under the Florida College System and the School for the Deaf and Blind.
- d) Equivalent positions at State Universities, Florida College System institutions or the School for the Deaf and Blind.

The following list identifies the positions **that are exempt**:

Positions of employment offered by the State as designated in Section 110.205(2), F.S and partially listed below (for a complete list see F.S.):

- a) Persons employed on a temporary basis without benefits and/or part-time positions.
- b) Heads of departments and certain managerial positions.
- c) City managers, County managers, management and policymaking positions of political subdivisions of the State.
- d) All members of state boards and commissions.
- e) Certain positions that require licensure as a physician.
- f) Positions that require employee membership to the Florida Bar.

Q: If a political entity posts a position, can a Veterans' Preference eligible employee within that entity utilize their Veterans Preference' for that position?

It depends. If the posting is made available to everyone (internal employees and external applicants), a VP eligible employee may use their VP benefit during the application process. However, if the posting is open only to internal employees, VP cannot be applied UNLESS the employee was deployed/activated while in their current position.

Q: How many days does an applicant have to file a complaint regarding the application of Veterans' Preference, and what requirements must be first met?

1. The complainant must file a complaint within 60 calendar days from the date they received notice of non-select from the hiring agency.
2. Prior to filing a complaint, it is the responsibility of the complaint to contact the designated Human Resources 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. It is the complainant's responsibility to maintain contact with the employer to stay informed as to the status of the position.

Q: How does an applicant file a complaint when they believe they have not been properly afforded Veterans' Preference?

In order to file a complaint against an employer, which is a State Agency or a political subdivision, the following information is required to be submitted:

1. A detailed statement with signature from the complainant. It is important to provide the sequence of events. The statement should include at a minimum:
 - a. The process used to notify the employer of eligibility for Veterans' Preference.
 - b. Information regarding interviews, any documents obtained and communication between complaint and employer.
2. Copy of the complainant's DD Form 214, and/or Certificate of Release or Discharge from Active Duty containing the character of service.
3. Position announcement.
4. Copy of the complainant's job application and résumé.
5. Non-selection notification and verification that the position was filled, or a statement to the fact.

6. Any and all other documents, email threads, or other correspondence received from the employer.

Q: Where does an applicant file their complaint?

Emailed to: VeteransPreference@fdva.state.fl.us, or

Mailed to: Florida Department of Veterans' Affairs
Attn: Veterans' Preference Coordinator
11351 Ulmerton Road, Suite 311
Largo, Florida 33778-1630

Q: What happens a complaint is filed?

Upon receipt of the information, FDVA will review the complaint and determine if FDVA has jurisdiction to proceed with an investigation. In order to have jurisdiction the claim must meet the criteria defined in Section 295.07, F.S., and Chapter 55A-7, F.A.C. If the complaint meets the criteria it will move forward and if does not meet the meet the criteria, the matter will not move forward. In either event the complainant will be contacted by FDVA.

Q: What is the timeline for a Veterans' Preference claim?

The Veteran must file a claim with the FDVA within **60** days of the date they received notification of not being selected.

Within **10** days of receiving the complaint, FDVA provides a written acknowledgment to both the complainant and the employer.

Within **20** days of receiving the complaint, FDVA designates an individual to conduct an investigation.

Within **10** days of being assigned to conduct an investigation, the designated individual requests information from the employer.

Within **30** days of the FDVA request for documentation, the employer shall furnish the following:

- a) Any and all materials concerning the hiring process and decision.
- b) A plain statement justifying their hiring decision.
- c) If applicable a statement as to whether the job functions can or cannot be performed by the preference-eligible applicant.

At the conclusion of the investigation, FDVA will issue an opinion letter to both the complainant and the employer stating whether the claim has merit or lacks merit.

If the complaint has merit, the employer shall send a written statement of proposed action to the complainant, AND FDVA, to resolve the complaint within **30** days from the date of the findings by FDVA. If there is no resolution between the employer and the complainant, or the employer does not respond within **30** days, the complainant has **45** days from the date of the finding by FDVA to request a hearing with the Public Employees Relations Commission (PERC).

If the complaint lacks merit, the complainant may still petition PERC for a hearing within **20** calendar days from the date of the findings by FDVA.