

Update
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Veterans' Preference Statute 295.07 and FAC Chapter 55-7

FAQS

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 which is compensable under public laws administered by the DVA or are receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the DVA and the Department of Defense.
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 war time period as defined in subsection 1.01 (14) 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 unremarried widow or widower of a Veteran who died of a service-connected disability.
5. The mother, father, legal guardian, or unremarried widow or widower of a service member who died as a result of military service under combat-related conditions as verified by the United States Department of Defense.
6. A Veteran as defined in section 1.01m (14) Florida Statutes. 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 Veterans' Preference,
7. A current member of any reserve component of the United States Armed Forces or The Florida National Guard.

Q: What are the War time periods?

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 to TBD

Operation Iraqi Freedom: March 19, 2003 to TBD

Operation New Dawn: September 1, 2010 to TBD

Q: What Character of Discharge must be on the DD214 in order to qualify for Veterans' Preference?

A Veteran **MUST** have been discharged with nothing less than an "HONORABLE" discharge.

An individual with a *General* discharge will not qualify for Veterans' Preference. A *General* discharge is sometimes written as "Under honorable conditions"

An "Uncharacteristic" discharge does not qualify for VP. This type of discharge is typically given when an individual has had a short period of service.

Q: What if the applicant has multiple DD214s 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 he/she received an Honorable discharge.

Therefore, the applicant will be entitled to VP and the other DD214 will be irrelevant.

Q: What is a DD215 and why is it important?

A DD215 is a document attached to a veteran's DD214 which declares that some information contained on the DD214 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. This typically means that the individual has taken their case before a board and requested that the character of service be upgraded. The board reviews the request and will grant or deny it. If the request is granted a DD215 will be issued and reflect an upgraded character of service. The change will supersede the previous one on the DD214.

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 Veterans' Preference. Any U.S. citizen or lawfully authorized alien worker in the United States, who qualifies for a position can apply with a political entity in the state of Florida and request Veterans' Preference on their job application.

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

VP is a "perpetual entitlement" This means that 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). An eligible employee for VP will always be able to utilize this benefit in the event of a Reduction in Force.

Q: What points/percentages are given for Preference?

Employers who use a numerically based system for hiring must augment an eligible applicant's score. The amount that is awarded 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 war time period or who has been awarded a campaign or expeditionary medal: **10 points/percent**

The unremarried widow or widower of a Veteran who died of a service-connected disability: **10 points/percent**

The mother, father, legal guardian, or unremarried 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), Florida Statutes: "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 do you apply the points/percent?

The eligible applicant must first attain a passing score before Veterans' Preference points can be added. For example, if the passing score is 80, the applicant **MUST** first achieve an 80 before the Preference points are added to the total.

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

If your total score is 100 you will always augment with 5, 10 or 15 points. If your exam has total points less than or more than 100 points,

you will need to use percentages of 5%, 10% or 15%. For example, if the final score is 50 points and the applicant is in category #3, the test score will be augmented by 10% and the applicant will have 55 points.

Q: When there are multiple tests in an application process, how do you know when to apply the points?

There are **two** ways of augmenting scores when you have multiple tests.

One: An applicant must pass the first test in order to proceed to the next test.

If the VP applicant earns a passing score (the established minimums), the score is augmented and they are able to move forward to the next test. If a passing score is achieved on any additional test, it is also augmented. The highest scoring individual is selected.

Two: An applicant takes a series of test and all of the scores are added up to reach a single cumulative score:

If the VP applicant earns a passing score (the established minimums) the final test score is augmented. The highest scoring individual is selected.

Q: What happens when the pool is reduced to the top five scoring candidates, scores are no longer a consideration and each candidate is considered equal?

In this scenario typically the decision maker may choose whomever he/she wants.

This is referred to as the "Rule of 5" (or whatever the size of the group). If there is a Veterans' Preference eligible applicant in the group, the decision maker **MUST** select the Veterans' Preference eligible candidate. The decision maker is not able to skip over an VP candidate and select an equally qualified Non-VP candidate.

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

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

When an examination is not given, Preference **MUST** be given at every step. At the very first step the eligible applicant, who meets the minimum is shown preference by the guarantee of an interview. Yet, the final choice is based upon who the decision maker believes is the most qualified.

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

However, when a Veterans' Preference 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.

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

Employment interviews can be either structured or unstructured. Generally speaking, structured interviews ensure candidates have equal opportunities to provide information and are assessed accurately and consistently. This is because a rating scale is used. Therefore, scores are augmented in structured interviews.

Structured Interviews

- *All candidates are asked the same questions in the same order.
- *All candidates are evaluated using a common rating scale.
- *Interviewers are in agreement on acceptable answers.

Unstructured Interviews

- *Candidates may be asked different questions.
- *A standardized rating scale is not required.
- *Interviewers do not need to agree on acceptable answers.

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

(a) Veterans, disabled Veterans, spouses of disabled Veterans and family members shall furnish a Department of Defense document, commonly known as form DD-214 or military discharge papers, or equivalent certification from the DVA, listing military status, dates of service and Character of Discharge.

(b) Disabled Veterans shall also furnish a document from the Department of Defense, the DVA, or the Department establishing that the Veteran has a service-connected disability. The type of disability does not have to be disclosed in most cases.

(c) Spouses of disabled Veterans shall furnish an Award Letter stating that they are entitled to benefits under Chapter 35 from the VA or the Department of Defense. This confirms that the Veteran is totally and permanently disabled. The spouse should also have an identification card issued by the Department; 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.

(d) A unremarried widow or widower of a veteran who died of a service- connected disability will supply documentation from the Veterans' Administration indicating the cause of death. The applicant must also include a signed FDVA form VP3 to establish that he/she has not remarried.

(d) Spouses of persons on active duty shall furnish a document from the Department of Defense or the DVA certifying that the person on active duty 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; such spouses shall also furnish evidence of marriage and a statement that the spouse is married to the person on active duty at the time of that application for employment.

(e) The mother, father, legal guardian, or unremarried widow or widower of a deceased Veteran shall furnish a document from the Department of Defense 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.

(f) Current Reserve members and National Guard members should provide a signed FDVA form VP 2 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 reach out to the applicant and request the correct documents. These efforts must be reasonable and with a variety of methods. Additionally, if the employer suspects that the applicant is eligible for VP but failed to provide the documents, the employer must reach out to the applicant and inquire.

Q: How many days does an individual have to file a complaint?

An individual must file a complaint within 60 calendar days from the date he/she received notice of non-select from the hiring agency. If no notice is given, then the individual must file a complaint within 3 months of the date the application is filed with the employer.

Q: Who is eligible for Preference in promotion?

In order to qualify for Veterans' Preference for promotion a VP eligible applicant must have a break in employment and be deployed under Title 10. After he/she is discharged, the applicant must return to the same public entity and be reemployed. The applicant must provide the employer a DD214 or comparable documents which show their discharge from Active duty and Character of Service. Active duty for training does not qualify.

Q: What about Character of Discharge for Promotion?

When an applicant returns from deployment, if they have a DD214 there will be no problem determining Character of Discharge which is noted on the Member 4 copy. However, when an employee is deployed less than six months they will not always have a DD214. Instead they will have orders which show they are being deployed under Title 10 and

the dates to be deployed and to be released. The applicant should provide a signed FDVA form VP 2 or equivalent document confirming their honorable service.

Q: When must the promotional opportunity be used and can it be used multiple times?

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

Q: If a VP eligible applicant has multiple deployments will he/she be entitled to multiple promotions?

Yes, A VP eligible applicant will be entitled to multiple promotions if they have had multiple deployments under Title 10 and returned "Honorably". Each qualifying deployment guarantees a promotional opportunity.

Q: Must a VP eligible applicant supply a DD214 when applying for their promotion?

No, a VP eligible applicant does not have to supply a DD214 when they are applying for their promotion. It is assumed that when the veteran returned from Active Duty, the Discharge documents were presented for the purposes of reemployment.

It is the responsibility of the HR department to track promotional opportunities for the veteran in order to assure that the veteran does not miss the opportunity for their entitled benefit.

Q: Is an eligible applicant automatically guaranteed a promotion due to their deployment?

An applicant who has had a qualifying event is guaranteed a promotional opportunity. However, at the time a promotional opportunity is available, the applicant must meet the minimums and be considered the best qualified candidate. If the applicant is unsuccessful and fails to get the promotion, the applicant can apply for a promotion as many times as necessary until he/she succeeds to meet the minimums, is considered the best qualified and receives the promotion.

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

The following list identifies the positions that qualify and those that are exempt:

(1) Positions of employment offered by the State as designated in Rule 55A-7.004, F.A.C., and listed below are covered by the provisions of this Chapter.

(a) All positions under the state Career Service System.

(b) All positions under the State University System's University Support Personnel System.

(c) All Career Service System positions under the State Community College System.

(d) All Career Service System positions under the Florida School for the Deaf and Blind.

(2) Positions of employment offered by a political subdivision of the state are covered by the provisions of this Chapter except those that are filled by officers elected by popular vote or persons appointed to fill vacancies in such offices and the personal secretary of each such officer, members of boards and commissions, persons employed on a temporary basis without benefits, heads of departments, positions

which require licensure as a physician, licensure as an osteopathic physician, licensure as a chiropractic physician, and positions which require that the employee be a member of The Florida Bar. Part time positions do not get Veterans' Preference.

City managers, County managers and management and policymaking positions of political subdivisions of the state are now eligible for preference in appointment and retention.

Q: If a political entity posts a position can a VP eligible employee within that entity apply for the position?

It depends. If the posting is made available to everyone (not internal), a VP eligible individual may use their VP benefit on the application. However, if the posting is internal the applicant can not ask for VP unless entitled to VP as a result of deployment .

External postings are distinguishable from promotional opportunities. All applications for qualifying positions should be carefully reviewed when an employee applies for a position within the same entity that currently employs him/her. When someone gets a job with a higher salary, it does not necessarily mean it is a promotion. Additionally a job within the same department might not be a promotion.

Q: Which employers must comply with the requirements found in the Statute FS 295 and Rule FAC 55.7? Is it only for Public employers?

The Statute 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: How does Veterans' Preference apply to teachers?

Teachers are entitled to Veterans' Preference. Teachers typically work on a year to year contract with no guarantees for renewal. When an eligible applicant is informed that they are not being renewed for the following year the applicant is unable to file a VP complaint. The only recourse is to apply for other positions.

Q: What are the VP1, VP2 and VP3 forms and how are they used?

For purposes of VP the FDVA has three (3) forms used when applying for a job with a public entity. They are as follows:

VP1 is the Veterans' Preference Certification.

This form must be completed and attached with all job applications to a public entity in the state of Florida when claiming veterans' preference. It serves to inform the employer that you are claiming VP and which category you are fall under.

VP2 is the Certification of Current Member of Reserve Component of the United States Armed Forces or the Florida National Guard.

This form must be completed and attached with all applications to a public entity in the state of Florida when an active member of the Reserves or National Guard apply for a job and wish to claim preference due to the fact that they are currently an active Reservist in the US Armed Forces or an active member of the Florida National Guard.

This form must also be completed and attached with all applications for reemployment to a public entity in the state of Florida when an active member of the Reserves or National Guard returns from an active duty deployment and reapply for their job and wish to claim preference. However, they will no longer qualify in the reservist category, but will now be considered War Time era Active Duty.

VP3 is the **Certification of Unremarried Widow or Widower.**

This form must be completed and attached with all applications to a public entity in the state of Florida when a widow or widower of a veteran apply for a job and must certify that they are unremarried.

Q: How does a VP eligible person file a complaint if they believe they have not been afforded their benefit?

In order to file a complaint against an employer with a State Agency or a political subdivision, the following information is required to be submitted to Florida Department of Veterans' Affairs/Veterans' Preference. This is your opportunity to present your case:

- 1) A detailed statement with original signature. Statement should include at a minimum:
the process used to notify employer of your eligibility for veteran preference, information on interviews and communication between you and the employer and attachments if applicable. It is important to provide the sequence of events.
- 2) Copy of your DD Form 214 containing your character of service.
- 3) Position announcement.
- 4) Copy of your job application and résumé.
- 5) Non-selection notification and verification that the position has been filled (if you have it or a statement to the fact)

- 6) Include any and all other documents, email threads or other correspondence received from the agency and the hiring agent.
- 7) A formal request for the assistance of the FDVA.
- 8) Information received from a Public Records request.

This information must be documented for each petition (job specific) you wish to have investigated.

Your complaint must be filed with FDVA within 60 calendar days from the date that the notice is received by you. That is the date on the notice plus 5 mailing days.

If you have not received notice of a hiring decision you have 12 calendar months from the date of the application, unless it is proven notice was received.

You will need to contact the employer to determine if the position has been filled. If it has been filled by a non-preferred applicant, you can then submit information to the FDVA.

You must contact the employer or the designated 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 **your** responsibility to keep in contact with the employer to find out the status of the position.

Upon receipt of the information the Agency will review your claim(s) to determine if the FDVA has jurisdiction to proceed in an investigation or mediation.

In order to have jurisdiction the claim must meet all the criteria identified in FS 295.7 and FAC 55-7.

If it meets all the criteria you will be contacted to discuss the matter and review the options. If it does not meet all the criteria, then the matter will not move forward.