

Notice of Development of Rulemaking

DEPARTMENT OF VETERANS' AFFAIRS

Division of Veterans' Benefits and Assistance

RULE NOS.: RULE TITLES:

55A-7.003	Definitions
55A-7.007	General Eligibility for Appointment and Retention Preference
55A-7.008	Persons Eligible for Appointment and Retention Preference
55A-7.009	Announcements, Applications and Due Process
55A-7.010	Employment Preference When Using a Numerically Based Selection Process
55A-7.011	Employment Preference When Numerically Based Selection Process Is Not Used
55A-7.0111	Reinstatement or Reemployment; Promotion Preference
55A-7.013	Documentation of Preference Claim
55A-7.015	Preference in Retention
55A-7.016	Enforcement of Preference

PURPOSE AND EFFECT: The Florida Legislature revised Section 295.065, et seq., providing for increased awards of points and the possibility of waivers for certain postsecondary educational requirements to be made available to persons who are eligible for Veterans' Preference. These rules are adjusted accordingly.

SUBJECT AREA TO BE ADDRESSED: Veterans' Preference provisions in the Florida Statutes.

RULEMAKING AUTHORITY: Section 292.05(3), FS

LAW IMPLEMENTED: 295.065, et seq., FS

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: December 7, 2021, 1:00 p.m.

PLACE: Join the meeting using one of these options:

- 1) From your computer, tablet or smartphone. <https://global.gotomeeting.com/join/110501829>
- 2) You can also dial in using your phone.

(For supported devices, tap a one-touch number below to join instantly.)

United States (Toll Free): 1(877)309-2073 - One-touch: tel:+18773092073,,110501829#

United States: (646)749-3129 - One-touch: tel:+16467493129,,110501829#, Access Code: 110-501-829

- 3) In person Mary Grizzle Building, Room 311, 11351 Ulmerton Road, Largo, Florida 33778

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: AgencyClerk@FDVA.STATE.FL.US If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Vicki Goonen, Agency Clerk, AgencyClerk@FDVA.STATE.FL.US/ or (727)518-3202, extension 5639.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

55A-7.003 Definitions.

As used in the rules of chapter 55A-7, F.A.C.:

(1)-(8) No change.

(9) "Examination" means any selection device which results in a numerical score and by which applicants are determined eligible for consideration for a specific position, unless such examination is waived by the state or political subdivision. These devices will include the following:

(a) A written or proficiency assessment of an applicant's knowledge, skills, and abilities;

(b) An assessment of the essential knowledge, skills, abilities, and other job-related requirements possessed by an applicant, or

(c) An evaluation of the applicant's training and experience.

(10) - (19) No change.

(20) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 295.07(2) FS. Law Implemented 1.01(14), 295.065, 295.07 FS. History—New 3-30-88, Formerly 22VP-1.003, Amended 2-12-90, 6-21-92, 7-12-93, 12-27-98, 7-26-00, 6-11-08, 6-27-16,_____.

55A-7.007 General Eligibility for Appointment and Retention Preference, and Educational Waivers.

Rule chapter 55A-7, F.A.C., sets forth procedures for providing preference and priority in the employment selection and retention practices of agencies of the State and its political subdivisions as defined in section 1.01(8), F.S., providing that the state and its political subdivisions may waive a postsecondary educational requirement for reservists or veterans employed under the state’s Career Service System under Section 110.205(1), unless serving in an exempt position under Section 110.205(2), Florida Statutes, applying such rules to those certain servicemembers, veterans, spouses and family members of servicemembers and veterans specified in section 295.07(1), F.S., who:

- (1) Have not been classified by any branch of the Armed Forces of the United States as a deserter, or
- (2) Have not received a discharge under less than honorable conditions upon separation from the Armed Forces.
- (3) Have not been designated as exempt pursuant to section ~~295.07(5)~~295.07(4), F.S.

This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 295.07(2) FS. Law Implemented 295.065, 295.07(4), 295.07(5), 295.123 FS. History—New 3-30-88, Formerly 22VP-1.007, Amended 12-27-98, 6-27-16,_____.

55A-7.008 Persons Eligible for Appointment and Retention Preference, and Educational Waivers.

The following persons shall be eligible to receive preference in appointment and retention in employment, and the possibility of the waiver of a postsecondary educational requirement, pursuant to section 295.07, F.S.:

(1)-(7) No change.

(8) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 295.07(2) FS. Law Implemented 295.07(1), (3) FS. History—New 3-30-88, Formerly 22VP-1.008, Amended 2-12-90, 6-21-92, 6-11-08, 6-27-16,_____.

55A-7.009 Announcements, Applications and Due Process.

(1) The employer, whether the state or a political subdivision, shall give notice in all written announcements and audio and video advertisements of employment opportunities subject to preference under section 295.07, F.S., that preference in appointment will be given to preference-eligible applicants, and shall indicate whether such position is deemed eligible for a waiver of postsecondary educational requirements.

(2)-(7) No change.

(8) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 295.07(2) FS. Law Implemented 295.065, 295.11 FS. History—New 3-30-88, Formerly 22VP-1.009, Amended 2-12-90, 7-12-93, 6-11-08, 6-27-16,_____.

55A-7.010 Employment Preference When Using a Numerically Based Selection Process.

(1) The names of persons, unless exempt under section ~~295.07(5)~~295.07(4), F.S., who receive a qualifying examination score for a position, are also eligible to receive an Augmented Rating as defined in subsection 55A-7.003(3), F.A.C. Veterans’ Preference points shall be added to the final examination score as defined in subsection 55A-7.003(9), F.A.C., in order to increase an applicant’s final score, and the names of preference-eligible persons shall be added to an appropriate register in order of the augmented score which is sum of examination score and applicable augmentation points unless subject to paragraph (2)(c), of this rule.

(2) ~~2015~~ augmentation points shall be added for:

(a) Those disabled veterans:

1. Who have served on active duty in any branch of the United States Armed Forces, have received an honorable discharge, and have established the present existence of a service-connected disability that is compensable under public laws administered by the DVA, or

2. Who are receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the DVA or Department of Defense.

(b) The spouse of a person who has a total disability, permanent in nature, resulting from a service-connected disability and who, because of this disability, cannot qualify for employment, and the spouse of a person missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power.

(c) Except for classes of positions with Federal Government designations of professional or technician, all persons eligible for a ~~2015~~-point preference whose service-connected disabilities have been rated at 30% or more, and meeting minimum qualifications established for the position, shall be placed at the top of the appropriate register or employment list in accordance with his or her respective augmentation points, and shall be granted an interview in all cases.

(3) ~~1540~~ augmentation points shall be added for:

(a) A wartime veteran as defined in section 1.01(14), F.S., who has served at least 1 day in a campaign or expedition for which a campaign badge has been authorized, including any armed forces expeditionary medal or the global war on terrorism medal, or during one of the specified periods of wartime service.

(b) The unremarried widow or widower of a veteran who died of a service-connected disability.

(c) The mother, father, legal guardian, or unremarried widow or widower of a member of the United States Armed Forces who died in the line of duty under combat-related conditions, as verified by the United States Department of Defense.

(4) ~~105~~ augmentation points shall be added for:

(a) A veteran as defined in section 1.01(14), F.S., not including wartime veterans who are eligible for ~~1540~~ points of augmentation under subsection (3), in this rule.

(b) A current member of any reserve component of the United States Armed Forces or the Florida National Guard.

(5) Augmentation points are to be added to a qualified candidate's examination score of 100 as follows: ~~2015~~ points for paragraph (2)(a) or (b), in this rule; ~~1540~~ points for paragraph (3)(a), (b), or (c), in this rule; ~~105~~ points for paragraph (4)(a) or (b), in this rule. However, where the highest possible examination score is more or less than 100, an alternative procedure makes it permissible to apply percentages to calculate additions to points instead, as follows: ~~2015~~ percent for persons described in paragraph (2)(a) or (b), of this rule; ~~1540~~ percent for persons described in paragraph (3)(a), (b), or (c), of this rule; and ~~105~~ percent for persons described in paragraph (4)(a) or (b), of this rule. If the total possible score is exactly 100, augment directly with ~~105~~, ~~1540~~, or ~~2015~~ points; if the total possible points are less than or more than 100 points, use percentages to calculate points for addition to examination score.

(6) No change.

(7) No change.

(8) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 295.07(2) FS. Law Implemented 295.08 FS. History—New 3-30-88, Formerly 22VP-1.010, Amended 2-12-90, 7-12-93, 12-27-98, 6-11-08, 6-27-16, 7-21-19,_____.

55A-7.011 Employment Preference When Numerically Based Selection Process Is Not Used.

(1) When open positions are not filled based upon examination scores or numerically-based selection, and are not among the exempt positions described in section ~~295.07(5)~~~~295.07(4)~~, F.S., Veterans' Preference in appointment, employment, and retention requires that a preference-eligible applicant be given special consideration and priority at each step of the selection process.

(2) Preference-eligible applicants who meet the minimum qualifications for the open position shall be considered for selection and shall be granted an interview in all cases, and the state or political subdivision may waive a postsecondary educational requirement, if deemed appropriate and justification is documented in writing.

(3)-(6) No change.

(7) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 295.07(2) FS. Law Implemented 295.085 FS. History—New 3-30-88, Formerly 22VP-1.011, Amended 2-12-90, 7-12-93, 12-27-98, 12-28-04, 6-11-08, 6-27-16,_____.

55A-7.0111 Reinstatement or Reemployment; Promotion Preference.

(1) When an employee leaves employment of the state or its political subdivisions for the purpose of serving in the Armed Forces of the United States, Reserve Component of the United States Armed Forces or The Florida National Guard, and is separated therefrom with an honorable discharge, the state or its political subdivision shall reinstate or reemploy such person under the following conditions:

(a) Reinstatement or reemployment is made to the same position as the position held before such service in the armed forces or to an equivalent position.

(b) Reinstatement or reemployment is made within (one) 1 year of the date of separation from the military service, or, in the case of extended active duty for a required military purpose other than for receiving training, within (one) 1 year of the date of discharge or separation subsequent to the extension.

(2) Persons reinstated or reemployed under this rule shall be awarded preference in promotion, and shall be promoted ahead of all other employees who are equally or less qualified for the position, if their service was full-time/active duty status for at least 90 consecutive days, or less, if discharged early while serving in a combat zone or due to medical reasons. When a numerically based selection process is used, such persons shall be eligible for and receive an award of preference points and ranking on the register as provided by rule 55A-7.010, F.A.C., of this chapter, and the state and its political subdivisions may also waive a postsecondary educational requirement in accordance with rule 55A-7.007, F.A.C., and promote the reservist or veteran ahead of all those who appear in an equal or lesser position on the promotional register, provided that he or she first successfully passes the examination for the promotional position. When a numerically based selection process is not used, rule 55A-7.011, F.A.C., applies. Eligibility for preference in promotion shall apply only to a veteran's first promotion after reinstatement or reemployment, without exception.

(3) No change.

(4) No change.

(5) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 295.07(2) FS. Law Implemented 295.08, 295.085, 295.09 FS. History--New 3-30-88, Formerly 22VP-1.0111, Amended 6-11-08, 6-27-16, 7-21-19,_____.

55A-7.013 Documentation of Preference Claim.

(1)-(4) No changes.

(5) The employer shall document the employee's election of Veterans' ~~Preference~~ Preference.

(6) No change.

(7) All applicants may submit: a Veterans' Preference Certification, FDVA form VP-1, incorporated by reference and found at [Placeholder electronic hyperlink for proposed replacement FDVA form VP-1] <http://www.flrules.org/Gateway/reference.asp?No=Ref-06983>, or a simple letter, form, or other written application containing essentially the same information, and the following:

(a)-(d) No change.

(e) The mother, father, legal guardian, or unmarried widow or widower of a deceased Veteran shall furnish a document from the Department of Defense showing the death of the service member while on duty status under combat-related conditions or the DVA certifying the service-connected death of the Veteran. The mother, father, or legal guardian shall provide evidence of familial relationship, such as a birth certificate. The unmarried widow or widower of a deceased Veteran shall furnish a document from the Department of Defense or the DVA certifying the service-connected death of the Veteran, and shall provide evidence of marriage, such as a marriage certificate. This evidence may be proved by providing a completed Certification of Unmarried Widow or Widower, FDVA form VP-3, incorporated by reference and found at [Placeholder electronic hyperlink for proposed replacement FDVA form VP-3] <http://www.flrules.org/Gateway/reference.asp?No=Ref-06985>.

(f) The current member of any reserve component of the United States Armed Forces shall provide a completed Certification of Current Member of Reserve Component of the United States Armed Forces or The Florida National Guard, FDVA form VP-2, incorporated by reference and found at [Placeholder electronic hyperlink for proposed replacement FDVA form VP-2] <http://www.flrules.org/Gateway/reference.asp?No=Ref-06984>, signed by an immediate military supervisor, in addition to the FDVA form VP-1. The current servicemember of any active component of the United States Armed Forces who is expected to be discharged or released from active duty service under honorable conditions no later than 120 days after the date that a Statement of Service certification or letter is

prepared by the armed forces, shall be treated as a preference-eligible applicant. These documents may be provided in lieu of a DD-214 or other documentation which may not be available until active service has ended.

(g) No change.

(8) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 295.07(2) FS. Law Implemented 295.065, 295.07, 295.11 FS. History--New 3-30-88, Formerly 22VP-1.013, Amended 2-12-90, 7-12-93, 12-27-98, 6-11-08, 6-27-16,_____.

55A-7.015 Preference in Retention.

(1)-(7) No change.

(8) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 295.07(2) FS. Law Implemented 295.07, 295.08, 295.085 FS. History--New 3-30-88, Formerly 22VP-1.015, Amended 7-12-93, 6-11-08, 6-27-16, 00-00-00.

55A-7.016 Enforcement of Preference.

(1) Employers are required to document the basis for hiring decisions by maintaining a file that includes documentation of advertised positions, dates advertised, waiver of educational requirements advertised, applications received, candidates interviewed, evaluation criteria and methods used such as numerical scoring or other means of evaluating applicants, documentation of manager, team or committee process and interview notes, waiver of educational requirements requested or granted, employment offer and acceptance letters, employment pre-screening results, agreed upon start date for person hired, and any other relevant information for the appropriate records retention period.

(2)-(14) No change.

(15) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 295.07(2) FS. Law Implemented 295.11, 295.14 FS. History--New 3-30-88, Formerly 22VP-1.016, Amended 2-12-90, 7-12-93, 12-27-98, 6-11-08, 6-27-16,_____.

FORMS found in Rule 55A-7.013

1)

Veterans' Preference Certification, FDVA form VP-1 to be electronically hyperlinked at 55A-7.013(7):

VETERANS' PREFERENCE CERTIFICATION

Date: _____ Name: _____

Section 295.07(1), Florida Statutes, provides for Veterans' Preference in employment appointment and retention, if qualified under one of the following categories, and not exempt under Section ~~295.07(5)~~295.07(4), Florida Statutes. Section 295.09, Florida Statutes, also provides Veterans' Preference for reinstatement, reemployment, and promotion. Some positions may advertise the availability of the waiver of a postsecondary education requirement. If you seek Veterans' Preference, please "check" the appropriate box, and provide this form and documentation of your status with your employment application, no later than the position advertisement closing date.

No changes.

Veterans' Preference Certification, FDVA form VP-1, effective date: [mo/yr]June/2016, incorporated in rule 55A-7.013, FAC

2)

Certification of Current Member of Reserve Component of the United States Armed Forces or The Florida National Guard, FDVA form VP-2 to be electronically hyperlinked at 55A-7.013(7):

CERTIFICATION OF CURRENT MEMBER OF RESERVE COMPONENT OF THE UNITED STATES ARMED FORCES OR THE FLORIDA NATIONAL GUARD

No changes.

Certification of Current Member of Reserve Component of The United States Armed Forces or The Florida National Guard, FDVA form VP-2, effective date: [mo/yr]June/2016, incorporated in rule 55A-7.013, FAC

3)

Certification of Unremarried Widow or Widower, FDVA form VP-3 to be electronically hyperlinked at 55A-7.013(7):

CERTIFICATION OF UNREARRIED WIDOW OR WIDOWER

No changes.

Certification of Unremarried Widow or Widower, FDVA form VP-3, effective date: [mo/yr]June/2016, incorporated in rule 55A-7.013, FAC