



DEPARTMENT OF MANAGEMENT SERVICES
DIVISION OF STATE HUMAN RESOURCE MANAGEMENT
POLICY GUIDELINE

STATE PERSONNEL SYSTEM

SUBJECT:

Administration of Veterans' Preference in the Career Service

POLICY GUIDELINE:

HRM #2017-004

EFFECTIVE DATE: Revised December 20, 2021; Revised August 20, 2019; Revised May 1, 2018 (Originally Issued February 6, 2017)

SUPERSEDES:

Program Guideline: Administration of Veterans' Preference in the Career Service

STATUTES/RULES/REGULATIONS/LAWS:

Section 1.01, Florida Statutes (F.S.), Definitions

Chapter 295, F.S., Laws Relating to Veterans: General Provisions

Rule 55A-7, Florida Administrative Code (F.A.C.), Veterans' Preference in Appointment and Retention in Employment

FORMS: *N/A*

ADDITIONAL REFERENCE MATERIALS: *N/A*

SCOPE AND PURPOSE:

This document addresses policy issues and frequently asked questions regarding the state law governing veteran's preference (Chapter 295, F.S.) and the rules of the Florida Department of Veterans' Affairs (FDVA) that govern veterans' preference (Chapter 55A-7, F.A.C.) and was prepared based on discussions with the FDVA's Veterans' Preference Administrator. It may be used as a reference tool for state agencies, human resource staff, and hiring managers of the State Personnel System (SPS) and is intended to provide general guidance in administering veterans' preference. However, in the event of any discrepancy between this document and the laws and rules governing veterans' preference, the final authority is the veterans' preference statutes, rules, policies, and requirements, as administered by the FDVA.

Veterans' preference applies only to positions under the Career Service System within the SPS.

DEFINITIONS:

For purposes of this guideline, the following definitions apply:

Appointment Preference – Pursuant to section 295.07, F.S., this term means employment of a preference-eligible candidate into a covered position with an agency within the SPS.

Covered Position – Pursuant to section 295.07(4)(a), F.S., this term means all positions under the Career Service System within the SPS.

Preference-Eligible Candidate – Pursuant to Rule 55A-7.003, F.A.C., preference-eligible candidate means a candidate eligible for preference in appointment or promotion, or an employee eligible for preference in retention pursuant to Section 295.07, F.S., including any person who is 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, the unremarried widow or widower of a veteran who died of a service-connected disability, or 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 who is missing in action, captured, or forcibly detained or interned in the line of duty by a foreign government or power.

Promotional Preference – Pursuant to section 295.09, F.S. and Rule 55A-7.0111, F.A.C., when a career service employee leaves employment with an SPS agency 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 with an honorable discharge and the same SPS agency has reemployed or reinstated such employee in accordance with state law and the provisions of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), such employee shall also be awarded preference in promotion to a covered position and shall be promoted ahead of all others who are as well qualified 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.

Retention Preference – Pursuant to section 295.07, F.S. and Rule 55A-7.015, F.A.C., veterans' preference shall be given in retention of veterans and other preference-eligible candidates. Veterans' preference ensures that veterans and other preference-eligible candidates are given special consideration at each step of the retention process in a proposed layoff action; however, the statute does not require the preference to be absolute. "Full-Time duties and operational support assignments in the Reserve Component of the United States Armed Forces and the Florida National Guard, for all purposes other than receiving training, are Preference-Eligible for recruitment, hiring, retention, and promotional preferences."

State Personnel System (SPS) – means the employment system comprised of positions within the career service, selected exempt service, or senior management service, and within all agencies except those in the State University System, the Florida Lottery, the Legislature, the Justice Administration System, or the State Courts System.

Vacant Position – This term means a covered position that the employer has announced as being open for recruitment and available to all candidates. A position that is announced as being open to current employees of the agency only (an internal vacancy announcement), to be filled by the reassignment, lateral, promotion or demotion appointment of an internal employee, is not a vacant position for the purposes of veterans' preference. Note: Agency employees who apply for internal vacancy announcements may be eligible for promotional preference pursuant to Rule 55A-7.0111, F.A.C.

Veteran – Pursuant to section 1.01(14), F.S., this term means a person who served in the active military, naval, or air service and who was discharged or released with their character of service noted as "Honorable" only or who later received an upgraded discharge to honorable, notwithstanding any action by the United States Department of Veterans' Affairs on individuals discharged or released with other than honorable discharges. To be eligible for veterans' preference as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge or expeditionary medal has been authorized or a veteran must have served at least one day during a wartime period as delineated in section 1.01(14), F.S., (excluding

active duty for training).

Veterans' Preference – As it relates to appointment, retention, reinstatement, reemployment and promotion, veterans' preference ensures that eligible veterans, and other preference-eligible candidates, are given special consideration at each step of the employment selection and retention process; however, the preference does not guarantee that a veteran or other preference-eligible candidate will be the candidate selected to fill the position.

POLICY OR PROCEDURE:

A. Eligibility for Veterans' Preference

As it relates to appointment, retention, reinstatement, reemployment and promotion, veterans' preference is applicable to covered positions within the SPS. The candidate seeking veterans' preference must have received an honorable discharge or must present documentation stating current service is honorable and, in accordance with section 295.07 F.S., meet one or more of the categories listed below.

Additionally, if the candidate is not the veteran and is claiming veterans' preference under one of the other criteria listed below, additional documentation may be required pursuant to Rule 55A-7.013, F.A.C.

- Category a. A veteran with a service-connected disability who is eligible for or receiving compensation, disability retirement, or pension under public laws administered by the United States Department of Veterans Affairs and the United States Department of Defense. [section 295.07(1)(a), F.S.]
- Category b. 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 or interned in line of duty by a foreign government or power. [section 295.07(1)(b), F.S.]
- Category c. A wartime veteran as defined in section 1.01(14) F.S., who has served on active duty for one day or more during a wartime period or who has served in a qualifying campaign or expedition. Active duty for training shall not qualify for eligibility under this paragraph. [section 295.07(1)(c), F.S.]
- Category d. The unremarried widow or widower of a veteran who died of a service-connected disability. [section 295.07(1)(d), F.S.]
- Category e. 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. [section 295.07(1)(e), F.S.]
- Category f. A veteran as defined in section 1.01(14), F.S., excluding active duty for training. [section 295.07(1)(f), F.S.]
- Category g. A current member of any reserve component of the United States Armed Forces or the Florida National Guard. [section 295.07(1)(g), F.S.]

B. Military Service Eligible for Veterans' Preference

Military service that is eligible for veterans' preference was expanded by section 295.07, F.S., effective July 1, 2014. Pursuant to the expanded statute, all military service members who received an honorable discharge are eligible for preference. However, the weight of the preference is determined by the category of veterans' preference chosen.

1. To receive preference as a **wartime veteran** pursuant to section 295.07, F.S., 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\(14\) F.S.](#), for a complete list of wars applicable for veterans' preference.*

The United States Office of Personnel Management (OPM) *Vet Guide, Appendix A*, provides a list of wars, campaigns and expeditions for the Armed Forces since World War II which qualify for veterans' preference and is available at <https://www.opm.gov/policy-data-oversight/veterans-employment-initiative/vet-guide/>.

Note: The receipt of a campaign or expeditionary medal is not required for the listed periods of wartime service, only service during those periods. A 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.

2. To receive preference for a wartime era as a reservist or as a member of the Florida National Guard for short term federal service for which a DD Form 214 is not issued, a copy of the orders for the eligible time period must be submitted with the FDVA form VP-2, or a signed memorandum from his or her Commander or military human resource personnel stating that he or she is serving honorably.

3. To receive preference as a veteran during a **non-wartime era**, the candidate must provide discharge documentation such as the DD Form 214 or comparable documentation and have served on active duty in a non-training status for at least one (1) day. There are two versions of the DD Form 214 that are acceptable for verifying veterans' preference: member copy Service-2 and Member-4 as each of these DD Form 214 forms contain the required information including the character of service.
4. To receive preference as a reservist or as a member of the Florida National Guard, the candidate must provide documentation of their current military status by submitting FDVA form VP-2, or a signed memorandum from his or her Commander or military human resource personnel stating that he or she is serving honorably. "Full-Time duties and operational support assignments in the Reserve Component and the Florida National Guard, for all purposes other than receiving training, are Preference-Eligible for recruitment, hiring, retention, and promotional preferences."
5. To receive preference under any of the other categories listed in Section A., the candidate must provide documentation pursuant to Rule 55A-7.013, F.A.C.

C. Character of Military Service Eligible for Preference

Since 1948, there have been six types of military discharges:

1. Honorable
2. General
 - a. Under honorable
 - b. Under less than honorable (OTH)
3. Uncharacterized (Trainee Discharge) considered honorable unless otherwise indicated
4. Undesirable
5. Bad Conduct (BCD)
6. Dishonorable

Only those discharged with their character of service noted on the DD Form 214 (Service-2 or Member-4 copy) or equivalent document as "Honorable" are eligible for appointment, promotion or retention preference in employment. Notwithstanding the fact that some discharges are characterized as "General Discharge – ***under honorable conditions***" (emphasis added), pursuant to the provisions of sections 1.01(14), F.S., and Rule 55A-7.007, F.A.C., this is considered a discharge "under less than honorable conditions" pursuant to direction provided by the Florida Department of Veterans' Affairs. Consequently, in order to qualify for veterans' preference, the employee or candidate must have received an "Honorable" discharge. This is pursuant to direction provided by the Florida Department of Veterans' Affairs.

As noted in Section B., an additional requirement for veterans' preference is to have served on active duty in a non-training status for one (1) day or more; a wartime veteran must have served on active duty in a non-training status for one (1) day or more during a wartime period. Based on this active duty requirement, those discharged with their character of service indicated as "uncharacterized", even though honorable, will not qualify for preference as the person will not have had active duty in a non-training status. If the discharge DD Form 214 states the character of service as "Honorable", the candidate is eligible for preference. Preference also does not apply to any person who has been classified by any branch of the Armed Forces of the United States as a deserter.

D. Vacancy Announcement Requirements and Determining Veterans' Preference

As outlined in Rule 55A-7.009, F.A.C., agencies must include a statement on announced Career Service vacancies indicating that veterans' preference in appointment will be given to eligible candidates. The People First system automatically adds a statement that fulfills this requirement on all Career Service requisitions; however, agencies should confirm the language is added to the requisition. Agencies should also confirm that the statement is not inadvertently added to non-career service requisitions.

In order to be considered for preference in employment, a veterans' preference claim must be indicated by the candidate on the candidate profile (see Section E for documentation requirements). An eligible veteran, or other preference-eligible candidate, who meets the documented minimum requirements of the position, is entitled to preference at each step of the selection process. **Minimum requirements may include meeting the minimum passing score on a validated test for certain positions. The veterans' preference eligible candidates must pass the established minimum acceptable score of the validated test prior to augmenting (increasing) the score for veterans' preference.** For agencies that use a numerically based selection process, preference is awarded by augmenting the final examination score of a veterans' preference eligible candidate. For agencies that do not use a numerically based selection process, preference-eligible candidates who meet the minimum qualifications for a given vacancy must be granted an interview. However, the preference does not guarantee that a veteran or other preference-eligible candidate will be selected to fill the position.

Completion of the veterans' preference section within the People First system is required, and the information supplied by the candidates will be kept confidential, as appropriate, in accordance with the Americans with Disabilities Act. A DD Form 214 (Service-2 or Member-4 copy) or equivalent document (that includes character of service), which serves as a certificate of release or discharge, or current reserve documentation, must be furnished at the time of application or prior to the closing date of the requisition. In addition, candidates claiming categories a, b, d, e, or g (as listed in Section A.) must furnish supporting documentation in accordance with the provisions of Rule 55A-7.013, F.A.C. Wartime periods are defined in section 1.01(14), F.S.

Pursuant to Chapter 2007-51, Laws of Florida, and effective July 1, 2007, veterans' preference in employment does not expire.

Pursuant to Chapter 2014-1, Laws of Florida, and effective July 1, 2014, Florida residency is no longer required for veterans' preference.

Veterans' preference in appointment applies to all veterans and preference-eligible candidates who apply to career service positions announced as "open competitive" or "State Personnel System". A position that is announced open to agency employees only (an internal agency announcement), i.e., to be filled by reassignment, lateral, promotion or demotion appointment of an internal employee, is not a vacant position for the purposes of veterans' preference. (However, when an internal candidate is a veteran and appointment to the internal vacancy would be a promotion, then *promotional preference* applies to such individual if eligible, as described in Section G.)

There are three levels under which points will be given to the veterans' preference eligible candidate. In accordance with the categories listed in section 295.07, F.S., preference points

will be given pursuant to section 295.08, F.S., for positions for which a numerically based selection process is used. Preference points will be administered according to the following:

- 20 points for a candidate under categories a or b
- 15 points for a candidate under categories c, d or e
- 10 points for a candidate under categories f or g

The points added are based on a 100-point rating system. If a rating system of other than 100 points is utilized, then 20 percent, 15 percent or 10 percent will be added based on the applicable maximum total score. **The veterans' preference eligible candidates must pass the established minimum acceptable score of a validated test prior to augmenting the scores for veterans' preference.** Additionally, in accordance with section 295.08, F.S. and pursuant to Rule 55A-7.010(2)(c), F.A.C., except for classes of positions with Federal Government designations of professional or technician, if a numerically based selection process is used, the names of all candidates qualified to receive a 20-point preference whose service-connected disabilities have been rated by the United States Department of Veterans Affairs or its predecessor or the United States Department of Defense to be 30 percent or more shall be placed at the top of the appropriate register or employment list, in accordance with their respective augmented ratings and shall be granted an **interview** in all cases.

The determination of whether a given position is in the federal category of professional or technician is based on the 2018 Standard Occupational Classification System available via the web site at: <https://www.bls.gov/soc/2018/home.htm>. All established positions within the SPS have an EEO-4 category designation for reporting purposes that may be used to assist in identifying whether a position is categorized as professional or technician. An agency may review the EEO-4 category designation for positions in Org Management within the People First system. To access the information, select the position in question in Org Management, then go to the "Position Attributes" screen. On the "Position Attributes" screen the EEO-4 category will be indicated (e.g., Professional).

The following chart illustrates the placement and scoring of veterans and preference-eligible candidates utilizing a numerically based selection process (with a minimum passing score set at 65) in accordance with Rule 55A-7.010(2)(c):

Candidates	VP/%	Score (based on 100 pts)	VP Pref. Points	Final Evaluation Score	Ranking Order
#2	N	98		98	1
#8	Y - 20% (10% disabled)	75	20	95	2
#6	Y - 15%	75	15	90	3
#3	Y - 10%	80	10	90	4
#5	N	90		90	5
#7	Y - 20% (30% disabled)	65	20	85	6
#9	N	85		85	7
#11	N	85		85	8
#12	N	85		85	9
#10	Y - 10%	75	10	85	10
#4	N	75		80	11
#1	N	75		75	12

In the above scenario, the agency has decided to only interview the top five scoring candidates. However, candidate #7 (30 percent disabled veteran) will also be interviewed in accordance with Rule 55A-7.010(2)(c), F.A.C. By the agency adding candidate #7 to the list of those selected for an interview, they are providing the required preference.

Pursuant to section 295.085, F.S., and Rule 55A-7.011(3), when a numerically based selection process is NOT used, first preference in appointment, employment, and retention shall be given to a candidate included under sections 295.07(1)(a) or (b) and second preference shall be given to a candidate included under sections 295.07(1)(c), (d), (e), (f), or (g). This means that in cases where two veterans or preference-eligible candidates are otherwise equally qualified for the position, the candidate who selected category a or b will have preference over a candidate who selected category c, d, e, f, or g (as listed in Section A.).

Preference must be provided to the veteran or preference-eligible candidate at each step of the selection process. As noted previously in this section, if a numerically based selection process is not used, Rule 55A-7.011, F.A.C. requires that all preference-eligible candidates who meet the minimum qualifications for the vacancy must be granted an interview. In addition, if, at any step in the selection process, a determination is made that the veteran or preference-eligible candidate is not qualified to advance to a subsequent step in the selection process, such determination will receive a review at a higher level of management having authority to overturn the initial determination, to ensure whether the determination was correct. In order to verify the review by a higher-level manager, it is recommended that the agency obtain a written confirmation from the manager who conducted the review. Additionally, the employer is required to document and justify the decision to hire a nonpreferred candidate

over the preferred candidate, subject to the review of that decision by the FDVA and ultimately by the Public Employees Relations Commission (PERC).

E. Documentation and Eligibility Review

It is each candidate's responsibility to provide the appropriate documentation to support the category of veterans' preference claimed at the time of application or before the closing date of each requisition. If the candidate who indicates veterans' preference on the candidate profile fails to submit ANY, or submits INCORRECT supporting documentation, Rule 55A-7.013(h) states the following: "the employer shall advise the applicant using email, written correspondence or another method, which may later be provided as evidence to the Department (of Veterans' Affairs) and Public Employees Relations Commission, of what Veterans' Preference documentation is missing, and thereafter request that the applicant for the Veterans' Preference benefit cure any deficiency by submitting the missing documentation within five (5) business days following the date the request is received by the person seeking the Veterans' Preference benefit. An employer must document at least one attempt to contact the applicant." This means it is the agency's responsibility to attempt to contact the candidate claiming veterans' preference using email, written correspondence, or another method, in order to obtain the correct documentation. Emailing the candidate through the People First system will automatically create the required written documentation and is highly recommended. The system may also be used to track non-system contact attempts by documenting the attempts in the candidate's comments section. Agencies must attempt to contact candidates who need to provide additional documents as soon as possible to advise the candidate of the missing documentation. Although agencies should request the candidate to submit the documentation as soon as possible, the required documentation must be received by the agency within five (5) business days following the date the request is received by the candidate.

If the candidate who indicates veterans' preference on the candidate profile is an employee of the agency and does not submit a DD Form 214 (Service-2 or Member-4 copy) or equivalent document, it is the agency's responsibility to check the official personnel file for previously submitted veterans' preference claim documentation before contacting the employee by phone or email.

Candidates may submit the following types of documentation to support their veterans' preference claim:

1. A DD Form 214 (Service-2 or Member-4 copy), or an equivalent document which serves as a certificate of release or discharge. Such documentation must contain the veteran's character of service. Rule 55A-7.013, F.A.C., also states that all candidates claiming veterans' preference may provide a completed FDVA form VP-1, or a simple letter, form, or other written application containing essentially the same information. The elements of the FDVA form VP-1 have been incorporated into the Veterans' Preference Information and Veterans' Preference Claim sections of the online People First application process. As a result, candidates utilizing People First are not required to submit the FDVA form VP-1. Other supporting documentation may be required depending upon the category under which the candidate is claiming preference (for example, if the candidate is applying under category "a" due to a service-connected disability) in accordance with Rule 55A-7.013, F.A.C.
2. To receive wartime era preference as a reservist or as a member of the Florida National Guard for short term service for which a DD Form 214 is not issued, a copy of the orders for the eligible period must be submitted with the FDVA form VP-2, or a

signed memorandum from the candidates' Commander or military human resource personnel stating he or she is serving honorably.

3. The current member of any reserve component of the United States Armed Forces may provide a signed memorandum stating he or she is serving honorably from the candidate's Commander or military human resource personnel, or a completed Certification of Current Member of Reserve Component of the United States Armed Forces or the Florida National Guard (FDVA Form VP-2).
4. The widow or widower of a deceased Veteran shall furnish a document from the United States Department of Defense or the United States Department of Veterans Affairs 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 VP-3) or document or form that similarly provides evidence regarding such the status.

Prior to applying, the appropriate documentation should be uploaded to the candidate's profile. Uploading the information to their profile will ensure it is automatically included with each vacancy submission.

The veterans' preference documentation is placed into the employee's personnel file upon appointment to a covered position.

F. Veterans' Preference Status on the Candidate Grid in People First

The candidate screen in the People First system contains five columns related to the review process for veterans' preference eligibility (candidate grid). The first column is titled "Veteran Status" (as indicated by the candidate), the second column is "People First Initial VP Review", the third column is "People First Eligible VP Category (if different)", the fourth column is "Agency Final VP Eligibility Review", and the fifth column is "Agency Final VP Category Determination." Below is an example of the veterans' preference section of the candidate grid:

Veteran Status ↑	People First Initial VP Review	People First Eligible VP Category (if different)	Agency Final VP Eligibility Review	Agency Final VP Category Determination
a. Veteran with a service-connected disability	Yes			
a. Veteran with a service-connected disability	No			
a. Veteran with a service-connected disability	Yes	c. Wartime veteran who has served on active duty		
None of the Above				
None of the Above				

During the initial review, the People First Service Center will inspect the DD Form 214 (Service-2 or Member-4 copy), or equivalent documentation, as required by Rule 55A-7, F.A.C or other documentation as required to determine eligibility for veterans' preference. Once this initial eligibility determination has been made, it will be indicated on the candidate grid.

- If the candidate is determined eligible for veterans' preference and the documentation submitted supports the category claimed, no additional review by the agency is required. In this case, the two "Agency Final" columns will remain blank.
- If the People First Service Center determines the candidate "ineligible for preference", then the agency must review the documentation provided (if any), conduct a second review, and complete the "Agency Final" columns on the candidate grid.

There are several reasons why the Service Center may note that a candidate may not be eligible for veterans' preference as indicated in Rule 55A-7, F.A.C. The reasons may include:

- The candidate is not a veteran or other preference-eligible candidate.
- The candidate did not furnish the appropriate supporting documentation.

However, each employing agency is ultimately responsible for ensuring that preference is given to eligible veterans and other preference-eligible candidates. If the candidate submits the incorrect documentation (or documentation is missing), it is the agency's responsibility to attempt to contact the candidate claiming veterans' preference by email, written correspondence, or another method in order to obtain the correct documentation. Emailing the candidate through the People First system will automatically create the required written documentation and is highly recommended. The system may also be used to track non-system contact attempts by documenting the attempts in the candidate's comments section. Documentation received from the candidate can be added to their profile upon receipt by the agency.

Although the People First Service Center assists the agency hiring managers in determining eligibility based on the preference selection made by the candidate, the employing agency is accountable for the accuracy of these eligibility assessments. Therefore, per Rule 55A-7, F.A.C., which requires review at a higher level of management, the agency must perform a second review of any candidate seeking veterans' preference who is initially determined ineligible by People First.

If the documentation submitted supports veterans' preference but does not support the preference category selected by the candidate, the People First Service Center will indicate the preference category supported by the documentation submitted under the column titled "People First Eligible VP Category (if different)." Consequently, to ensure appropriate application of veterans' preference, the agency must review the documentation provided, conduct a second review, and complete the "Agency Final" columns on the candidate grid. For example: candidate selects "category a" and submits a DD Form 214 (Service-2 or Member-4 copy) but does not submit the required documentation to support the disability claim. In this case, the People First Service Center will evaluate the DD Form 214 submitted and determine the appropriate category of preference based on the information on the DD Form 214 (Service-2 or Member-4 copy). The new category will be noted under the column titled "People First Eligible VP Category (if different)" as noted in the sample candidate grid above and the notes section will contain the reason for the evaluation of veterans' preference category differing from the category selected by the candidate.

If the candidate submits the incorrect documentation or does not submit any documentation for the level of preference indicated, it is the agency's responsibility to review the official personnel file if the candidate is an employee of the advertising agency or to attempt to contact the candidate claiming veterans' preference by email, written correspondence, or another method in order to obtain the correct documentation. Emailing the candidate through the People First system will automatically create the required written documentation and is highly recommended. The system may also be used to track non-system contact attempts by documenting the attempts in the candidate's comments section. Documentation received from the candidate can be added to their profile upon receipt by the agency.

To notify the agency of any required management review, the hiring manager indicated on the requisition will receive an email message from the People First Service Center indicating if there are candidates in that requisition who have been determined ineligible for veterans' preference or have been determined eligible for a preference category other than that selected by the candidate.

Agencies are urged to assign management reviews to a designated veterans' preference subject matter expert(s) rather than delegating to each hiring manager. This approach is recommended because the documentation submitted by candidates to support their veterans' preference claim contains confidential information and a proper review to assess eligibility requires special handling by someone trained on the rule and statutory requirements. Therefore, once the hiring manager receives notification from People First of a candidate who has been determined ineligible for preference or eligible for a preference other than that selected by the candidate, the recommendation is for the hiring manager to notify the agency headquarters Human Resource Officer (HRO). The email message sent to the hiring manager is only to assist in assuring implementation of the management review or the need for additional due diligence in contacting the candidate to obtain the correct documentation for proper veterans' preference determination. The HRO may then expedite contacting the candidate for documentation or the management review process, as applicable, by forwarding the request to the appropriate individual on their human resources or management team. Additional guidance from the Division of Human Resource Management or from the Florida Department of Veterans' Affairs may be sought if the agency is unsure of the candidate's eligibility for veterans' preference.

To review Veterans' Preference documentation submitted by the candidate, follow these steps:

- Proxy as the agency HR user
- Locate the requisition
- Click on the "Candidates" tab
- Click on the Candidate's name
- View the Veterans' Preference Documentation under the heading "Submission Attachments"

Once the agency has completed its review, the appropriate agency staff will update the veteran section on the candidate's profile and notate the agency management review decision on the candidate grid by selecting either a "Yes" or "No" response from the drop-down menu in the field titled "Agency Final VP Eligibility Review." If the VP category is determined to be different following the agency review, the "Agency Final VP Category Determination" should be updated with the appropriate category selection. Comments regarding the agency management review determination may be added in the notes section for each candidate. **The requisition will not be ready for candidate review by the hiring manager until this step has been completed so that all eligible veterans' preference candidates will be given appropriate consideration.** The agency may advise the supervisor to proceed with the hiring process at this time. However, in the event the agency must request additional documentation from the candidate or research documentation on file for current employees, the agency will advise the supervisor that additional veterans' preference candidates are being contacted and may need to be included in the selection process if the appropriate documentation is received within the five (5) business days as required by Rule 55A-7.013(7)(h), F.A.C.

G. Promotional Preference – Reinstatement or Reemployment

When an employee in a covered position leaves employment¹ of an SPS agency for the purpose of serving in the Armed Forces of the United States and is separated with an honorable discharge, the agency must reinstate or reemploy such employees in accordance with USERRA and Florida Statute under the following conditions:

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

Employees reinstated or reemployed under this law shall be awarded preference in promotion within the employing agency and shall be promoted ahead of all other employees who are as well or less qualified for the position. The promotional preference is limited to “Internal Agency Announcements”. Eligibility for preference in promotion shall apply only to a veteran’s first promotion after reinstatement or reemployment, without exception (section 295.09, F.S.). Once an employee is promoted, all previous full-time active duty service is considered “used” and may not be invoked for use on a subsequent promotion. However, if the employee serves active duty AFTER the employee has been promoted, then the employee is eligible for another promotional preference following reinstatement or reemployment with the agency. Additionally, if the employee is promoted at any time following deployment but does not request the use of veterans’ preference during the selection process, the promotional preference is considered “used” and cannot be “banked” for a future promotion. (See questions 4 & 5). The employee who is a reservist or Florida National Guard member may submit the FDVA form VP-2 or a signed memorandum stating he or she is serving honorably from their Commander or military human resource personnel, along with a copy of their orders for any short-term military service (does not include active duty for training) for which a DD Form 214 will not be issued. The orders must be for 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. However, the employee does not earn multiple promotional preferences due to “extensions” to current active duty assignments. Promotional preference is determined by the employing agency (i.e., the agency where the employee worked prior to active military service). **The People First Service Center does not assist agencies with veterans’ preference eligibility for promotions.**

H. Retention Preference

In accordance with Chapter 295, F.S. and Rule 55A-7.015, F.A.C., veterans and other preference-eligible candidates are to receive special consideration in every step of the retention process. If there is any discrepancy between the administration of the guidance outlined in Rule 55A-7.015, F.A.C. and a collective bargaining agreement currently in effect, the guidance outlined in the collective bargaining agreement will prevail.

Although the process to determine positions that may be identified for layoff may differ depending on the mission and strategic needs of each agency, Rule 55A-7.015, F.A.C. provides the following guidance in administering veterans’ preference in retention:

¹ In accordance with Chapter 115, F.S., it is the practice of the SPS to place employees who have been called to active duty on leave with or without pay as appropriate.

1. An employer shall provide no less than 60 days notice to affected employees prior to beginning implementation of a workforce reduction or layoff plan. This notice shall describe the different categories of preference-eligibility, shall provide employees a minimum of 30 days to provide documentation of eligibility, and designate an appropriate point of contact within the organization for employees to submit this documentation.
2. 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.
3. A numerically-based process may be used for retention, pursuant to section 295.08, F.S.
4. If a numerically-based process is not used, the employer shall give preference and priority to the retention of preference-eligible employees in the following manner:
 - (a) Employees who are not eligible for preference shall be considered first for layoff, before preference-eligible employees.
 - (b) If there are no other non-preference employees, then preference-eligible employees can be considered for layoff.
 - (c) In the event that two equally-qualified preference-eligible employees are considered for layoff, retention shall be awarded first to disabled veterans under section 295.07(1)(a), F.S., or spouses under section 295.07(1)(b), F.S.
5. Preference-eligible employees who have previously provided proof of eligibility to the employer, and have this documentation as part of their personnel file, are not required to resubmit proof of eligibility for retention.
6. Each employer shall ensure that records are maintained which document the retention process and justification for its final decision.
7. If a preference-eligible employee is not selected for retention, the employer shall notify the employee within 7 days of the retention decision.

I. Notification of Hiring Decisions and Veterans' Preference Complaint Process

Although Rule 55A-7.009, F.A.C., indicates that an agency must notify veterans' preference eligible candidates who are not selected for a position of the hiring decision within 14 business days of the decision, the Veterans' Preference Administrator at the FDVA has authorized state agencies to initiate the notice of a hiring decision to non-selected candidates within 14 business days after the date the selected candidate actually begins work in the announced vacancy.

A candidate for veterans' preference who believes he or she was not afforded employment preference may file a complaint in accordance with Rule 55A-7.016, F.A.C., with the Florida Department of Veterans' Affairs, Veterans' Preference Coordinator, 11351 Ulmerton Road,

Suite 311, Largo, FL, 33778. The Department of Veterans' Affairs has also established an email where people can electronically file claims or ask questions. The email is veteranspreference@fdva.state.fl.us.

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

FREQUENTLY ASKED VETERANS' PREFERENCE QUESTIONS:

1. May a postsecondary educational requirement be waived for veterans?

Yes. Effective July 1, 2021, an agency, at its discretion, may waive a postsecondary educational requirement 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 if the person is otherwise qualified for the position.

2. Must a candidate submit documentation to support veterans' preference eligibility for each position for which he/she applies?

Yes. If applying to an open competitive vacancy announcement, per Department of Veterans' Affairs Rule 55A-7.013, F.A.C., candidates are responsible for providing the required documentation to the employer by the closing date of the vacancy announcement. The People First Service Center must receive the documentation no later than 11:59 p.m. on the closing date of the requisition. Candidates must upload the documents when submitting their candidate profile via the People First system. Career Service positions posted as State Personnel System announcements are considered open vacancy announcements for purposes of veterans' preference.

NOTE: If the documentation submitted does not support the category of veterans' preference claimed by the candidate, incorrect documentation was submitted, or the candidate did not provide any documentation to support the claim, it is the agency's responsibility to reach out to the candidate claiming veterans' preference in order to obtain the correct documentation. Refer to Section E. of this guidance for information regarding the contacting of candidates in order to obtain the documents that support a claim for veterans' preference.

3. Must a candidate submit documentation to support veterans' preference eligibility for each position for which he/she applies within their own agency?

No. In *Brennan v. City of Miami*, 146 So. 3d 119 (Fla. 3rd DCA 2014), the court overruled a PERC decision and determined that if the candidate requesting veterans' preference is applying for an "open competitive, State Personnel System, or internal agency" announcement and is an employee of the advertising agency, then the candidate is not required to provide the supporting documentation if they believe it is available in their official personnel file. The agency is required to contact the candidate claiming veterans' preference by phone or email in order to obtain the correct documentation if the agency is not able to locate the appropriate documentation in the official personnel file. Contacting a candidate by email is permissible to meet the notification requirements of Rule 55A-7.013(7)(h), F.A.C., and is the preferred method since it creates written documentation of an attempt to contact a candidate.

4. When requesting additional information from the candidate in order to properly apply veterans' preference, how long must an agency wait for their response?

Rule 55A-7.-13(7)(h), F.A.C., states that "the employer shall advise the applicant using e-mail, written correspondence or another method, which may be later provided as evidence to the Department and the Public Employee Relations Commission, of what Veterans' Preference documentation is missing, and thereafter request that the applicant for the Veterans' Preference benefit cure any deficiency by submitting the missing documentation within five (5) business days following the date the request is received by the person seeking the Veterans' Preference benefit".

5. If an employee has used his/her promotional opportunity, but is then called back to active military service and receives another DD Form 214 upon discharge, is this employee entitled to another opportunity for promotional preference?

Yes. Pursuant to section 295.09, F.S., the employee would be entitled to another promotional preference opportunity. The employee is entitled to a promotional veterans' preference opportunity each time the employee is called back to active military duty and is subsequently discharged (confirmed as an "honorable" discharge by DD Form 214 (Service-2 or Member-4 copy or equivalent document) or as required in section G. and reemployed. Veterans' preference for promotion will be administered under the same guidance as for other open vacancy announcements.

Additionally, if an employee serves multiple full-time/active duty assignments (not for training) as a Reservist or Florida National Guard member for at least 90 consecutive days and is subsequently promoted, ALL deployments prior to the effective date of the promotion are considered "used" and cannot be "banked" for veterans' preference for subsequent promotions.

6. If the employee is reinstated and is subsequently promoted without requesting the use of their veterans' preference, do they still maintain or "bank" a preference for future use?

No. A promotion *applied for and received* after one's return would in fact be a first promotion and would exhaust the promotional benefit. This is supported in a similar case that was appealed to PERC. In *Keller vs. PERC*, 691 So.2d 36 (Fla. 5th DCA 1997), the court upheld a PERC decision in which a veteran had applied and been promoted to Sergeant after his deployment and reemployment. He had not requested the use of Veterans' Preference (VP) and was in fact promoted without it. He subsequently (two years later) applied for a promotion to Lieutenant and asked for VP and was denied. He appealed to PERC. The decision made by PERC and upheld by the DCA was that the preference applies to the first promotion only after reinstatement or reemployment. Had he applied for preference at the Sergeant stage and been denied he would have had standing in an appeal, but in this instance, he applied for a promotion and got it even though he did not request use of VP. The intent was never to save or "bank" the preference for future consideration.

7. How do employees know their rights as related to veterans' preference for reemployment/reinstatement and for a promotional opportunity?

Each agency has a responsibility to ensure that eligible employees are given veterans' preference for reinstatement, reemployment or promotional opportunities in accordance with section 295.09, F.S.

Employees may also contact the Florida Department of Veterans' Affairs for further information at the number given at the end of this section.

Additionally, a printable notice entitled "[Your Rights Under USERRA](#)" can be obtained by visiting the [US Department of Labor's website](#). It is suggested that employees be provided with this information upon reemployment.

Other questions or issues not addressed in this document may be directed to the Department of Veterans' Affairs, Veterans' Preference Coordinator, 11351 Ulmerton Road, Suite 311, Largo, FL, 33778. Their telephone number is (727) 518-3202 Ext. 5511 or by email to veteranspreference@fdva.state.fl.us

For additional information regarding veterans' preference, please visit the website of the Department of Veterans' Affairs at <http://floridavets.org/benefits-services/veterans-preference/>.

APPLICABLE STATUTORY AND RULE CITATIONS:

Section 1.01(14), F.S., Definitions

(14) The term "veteran" means a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or during one of the following periods of wartime service:

- (a) Spanish-American War: April 21, 1898, to July 4, 1902, and including the Philippine Insurrection and the Boxer Rebellion.
- (b) Mexican Border Period: May 9, 1916, to April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders of, or in the waters adjacent to Mexico.
- (c) World War I: April 6, 1917, to November 11, 1918; extended to April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided such veterans had at least 1 day of service between April 5, 1917, and November 12, 1918.
- (d) World War II: December 7, 1941, to December 31, 1946.

- (e) Korean War: June 27, 1950, to January 31, 1955.
- (f) Vietnam War: February 28, 1961, to May 7, 1975.
- (g) Persian Gulf War: August 2, 1990, to January 2, 1992.
- (h) Operation Enduring Freedom: October 7, 2001, and ending on the date thereafter prescribed by presidential proclamation or by law.
- (i) Operation Iraqi Freedom: March 19, 2003, and ending on the date thereafter prescribed by presidential proclamation or by law.

Chapter 295, F.S., Laws Relating to Veterans: General Provisions

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0295/0295ContentsIndex.html&StatuteYear=2019&Title=%2D%3E2019%2D%3EChapter%20295

Rule 55A-7, F.A.C., Veterans' Preference in Appointment and Retention in Employment

<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=55A-7>

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