

VETERANS' PREFERENCE

FILE: GBAC

TITLE: Veterans' Preference

POLICY:

- (1) Generally. Chapter 295, Florida Statutes, sets forth certain requirements for public employers to accord preferences, in appointment, retention, and promotion, to certain veterans and spouses of veterans who are Florida residents. The relevant portions of the law apply to "the state and its political subdivisions." School districts are subject to the requirements of Chapter 295, Florida Statutes, under which The School Board of Orange County, Florida ("Board") establishes this policy.
- (2) Categories of Protected Individuals. Section 295.07, Florida Statutes, extends veterans' preference to:
 - (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.
 - (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 by a foreign power.
 - (c) A veteran of any war who has served on active duty for one day or more during a wartime period, excluding active duty for training, and who was discharged under honorable conditions from the Armed Forces of the United States of America. A veteran who has 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. The service dates are defined as follows:
 - i. Operation Enduring Freedom October 7, 2001 to date to be determined.
 - ii. Operation Iraqi Freedom March 19, 2003 to date to be determined.
 - (d) The un-remarried widow or widower of a veteran who died of a service-connected disability.
 - (e) Any Armed Forces Expeditionary Medal, as well as the Global War on Terrorism Expeditionary Medal, qualifies for Veterans Preference.

- (f) The mother, father, legal guardian, or un-remarried 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.
 - (g) A current member of any reserve component of the United States Armed Forces or the Florida National Guard.
 - (h) The term “veteran” shall be defined as in Section 1.01, Florida Statutes. Active duty for training may not be allowed for eligibility under this provision.
- (3) Wartime Periods. For purposes of this policy, wartime periods shall consist of the following:
- (a) World War II: December 7, 1941 to December 31, 1946;
 - (b) Korean War: June 27, 1950 to January 31, 1955;
 - (c) Vietnam War: February 28, 1961 to May 7, 1975;
 - (d) Persian Gulf War: August 2, 1990 to January 2, 1992’
 - (e) The conflicts in Afghanistan and Iraq from September 11, 2001 to present.
- (4) Documentation Required for Veterans, Disabled Veterans, Spouses of Disabled Veterans, and Spouses of Persons on Active Duty. An individual claiming veterans’ preference is responsible for providing the following required eligibility documentation within three (3) days of his/her application for employment with the Board. Please submit a cover letter and copies of documents, not originals, to Orange County Public Schools, Attention Human Resources Division, 445 West Amelia Street, Orlando, Florida 32801.
- (a) Veterans. The documentation submitted by veterans must indicate character of service and include:
 - i. Defense Form DD-214; or
 - ii. Military Discharge Papers; or
 - iii. Equivalent Certification from the United States Veterans Administration listing military status and dates of service.
 - (b) Disabled Veterans. The documentation submitted by disabled veterans must indicate character of service and include:
 - i. Certifying documents from the United States Department of Defense;

- ii. Other documents from the United States Veterans Administration or the United States Division of Veterans Affairs that the veteran has a service connected disability.
 - (c) Spouses of Disabled Veterans. The documentation submitted by spouses of disabled veterans must indicate character of service and include:
 - i. Certification from the United States Department of Defense or the United States Veterans Administration that the veteran is totally disabled; OR
 - ii. An identification card issued by the United States Division Veterans Affairs, certificate of marriage to the veteran, a statement attesting that the spouse is still married to the veteran at the time of application, and proof that the disabled veteran cannot qualify for employment because of a service connected disability.
 - (d) Spouses of Persons on Active Duty. The documentation submitted by spouses of persons on active duty must indicate character of service and include:
 - i. Documentation from the United States Department of Defense or United States Veterans Administration certifying that the individual is a spouse of a person on active duty or that the individual is a spouse of a person on active duty who is listed missing in action, captured in the line of duty, or forcibly detained or interned in the line of duty by a foreign government or poser; and
 - ii. A statement attesting that the spouse is married to the person on active duty at the time of application for employment.
 - (e) Un-Remarried Widow or Widower of a Deceased Veteran. The documentation submitted by an un-remarried widow or widower of a deceased veteran must indicate character of service and include:
 - i. Documentation from the United States Department of Defense or the United States Veterans Administration certifying the service-connected death of the veteran, evidence of marriage, and a statement that the spouse is not remarried.
- (5) Other Provisions Regarding Preference.
- (a) Veterans' preference in perpetuity. A person eligible for veterans' preference in appointment (defined by Section 295.07, Florida Statutes) does not forfeit employment preference eligibility once that veteran or eligible spouse of the veteran has been employed by a state agency or any political subdivision of this state. Effective July 1,

2007, Florida law restores veterans' preference in employment for all categories of protected individuals previously employed by a state agency or any political subdivision of this state.

- (b) Preference in appointment and employment. Preference in appointment and employment requires that a preferred applicant be given special consideration at each step of the employment selection process but does not require the employment of a preferred applicant over a non-preferred applicant who is the most qualified applicant for the position. Granting of an interview is one example of the type of special consideration which may be given to a preferred applicant. If, at any stage of the hiring process, a preference-eligible veteran meets the minimum qualifications for an open position, then he or she will advance to the next step in the public employer's selection process. If, at any step in the selection process, a determination is made that the preferred applicant 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.
- (c) Examination. To the extent a hiring for a position requires an examination, the following shall apply:
 - i. Fifteen (15) points shall be added to: (1) the rating of disabled veterans as defined in Section 295.07(1)(a), Florida Statutes; (2) to the spouse of a person who has a total disability, permanent in nature, resulting from a service connected disability, who because of the disability, cannot qualify for employment; and; (3) the spouse of a person missing in action, captured in the line of duty by a hostile force, or forcibly detained or interned in the line of duty by a foreign government or power.
 - ii. Ten (10) points shall be added to: (1) a wartime veteran who has served at least one (1) day during a wartime period; (2) the un-remarried widow or widower of a veteran who died of a service-connected disability; and (3) the mother, father, legal guardian, or un-remarried 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.
 - iii. Five (5) points shall be added to: (1) a veteran; and (2): a current member of any reserve component of the United States Armed Forces or the Florida National Guard.
- (d) Preference in layoffs. Where a layoff is necessitated in a covered position, similar preferences must be given to the covered veteran employee in the retention process. If there are positions remaining in the job classification of the veteran, the veteran must be retained. For example, the veteran is a technician and there are six (6) technician

spots available before the layoff. After the layoff, there are three (3) technician spots available. The veteran, in order to be afforded the preference under the statute, must be retained. If, in the example above, all six (6) technician positions are eliminated, the veteran must be given affirmative assistance by Human Resources to identify position(s) for which he or she is qualified and affirmative assistance in applying for those position(s).

- (e) Preference in reinstatement or reemployment. When an employee in a covered position leaves employment of the state or its political subdivisions for the purpose of serving in the Armed Forces of the United States and is separated therefrom with an honorable discharge, the state or its political subdivision shall reinstate or reemploy such person under the following conditions:
 - i. Reinstatement or reemployment is made to the same or to an equivalent position; and
 - ii. 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, within one (1) year of the date of discharge or separation subsequent to the extension.
 - a. Persons reinstated or reemployed under this section shall be awarded preference in promotion, and shall be promoted ahead of all other employees who are as well or less qualified for the position. When an examination, as defined in Rule 55A-7.003, Florida Administrative Code, is utilized, such persons shall be eligible for preference points and ranking on the register as provided by Rule 55A-7.010, Florida Administrative Code. Eligibility for preference in promotion shall apply only to a veteran's first promotion after reinstatement or reemployment, without exception.
 - b. If the reinstated or reemployed person is not promoted, the person retains promotion preference eligibility until the first promotion following reemployment is satisfied.
 - c. Where the reinstated or reemployed person is not promoted and the register is vacated to establish a new register for the next promotion, such person shall retain eligibility for preference points and ranking on the new register as provided by Rule 55A-7.010, Florida Administrative Code.
- (f) Promotion preference. Promotion preference applied only to a veteran's first promotion after reinstatement or reemployment without exception.

(6) Exempt Positions. Chapter 295, Florida Statutes, provides for a preference in employment for certain classes of covered positions.

(7) Enforcement. If an applicant claiming veterans' preference for a vacant position is not selected, he/she may file a complaint with the:

Florida Department of Veterans' Affairs (FDVA)
Division of Benefits and Assistance
9500 Bay Pines Road
Bay Pines, FL 33744

(8) Complaints. A complaint must be filed within twenty-one (21) days of the applicant receiving notice of the hiring decision made by the employing agency or within three months of the date the application is filed with the employer if no notice is given. The enforcement mechanism established by the regulations provide for an initial investigation by the Florida Department of Veterans' Affairs, followed by an evidentiary proceeding before the Public Employees Relations Commission if the matter cannot be earlier resolved.

SPECIFIC AUTHORITY:

Sections 1.01; 295.07-295.11, Florida Statutes

Rules 55A-7.003; 55A-7.010, Florida Administrative Code

ADOPTED: 06/22/2010

REVISED: 9/27/16