

VETERANS' PREFERENCE IN HIRING OR PROMOTION: AN OVERVIEW FOR PUBLIC EMPLOYERS

**By Jeff Burgess, Program Coordinator
Technical Assistance for Employers
Bureau of Labor and Industries**

State, local and special governmental bodies are required to give preference to certain veterans and disabled veterans in hiring and promotions to civil service positions. This column will explore the basic provisions of the veterans' preference laws and rules. Our next column will feature some common questions public employers face as they attempt to apply the preference throughout the hiring and promotion processes.

First, a couple of definitions are important to help understand the reach of the veterans' preference law. By "veteran", we mean a person who served on active duty with the U.S. armed forces for more than 178 consecutive days and who was honorably discharged or released from such service. The definition includes veterans who served 178 days or less, but were honorably discharged or released because of a service-connected disability, or who were honorably discharged or released and who served at least one day in a combat zone. Also included are veterans who received a combat or campaign ribbon for service in the U.S. armed forces. See, <http://www.opm.gov/staffingportal/vgmedal2.asp> for qualifying medals and military campaigns. A "disabled veteran" is a person who is entitled to disability compensation through the U.S. Department of Veterans Affairs, one whose discharge or release was for a disability incurred or aggravated in the line of duty, or a recipient of the Purple Heart for wounds received in combat. A "promotion" means any position with a higher maximum salary rate. Finally, a "civil service position" need not be labeled as such, but is any position for which hiring or promotion is decided or required to be decided on the results of a merit-based, competitive process, including, among other criteria, consideration of the person's ability, knowledge, experience and other skills.

Veterans' preference in hiring or promotion, therefore, need not be used by private employers or by public employers who are filling positions that are not civil service positions. Veterans and disabled veterans are eligible for the preference at any time after discharge or release from the service, and there is no limit to the number of times a veteran or disabled veteran can claim the preference.

Veterans and disabled veterans are eligible for the preference at any time after discharge or release from the service and there is no limit to the number of times a veteran or disabled veteran can claim the preference.

So how is the preference applied by a public employer during the hiring or promotion process? If a veteran or a disabled veteran successfully completes an initial application screening, the public employer applies the preference at each stage of the process. It does so

by adding five preference points to the score of a veteran and ten preference points to the score of a disabled veteran. Those preference points are again applied to the total combined score of the application examination. If the application examination total score, enhanced by the preference, results in the veteran's score being equal to or higher than that of a non-veteran, the employer is required to hire the veteran.

In making promotion decisions, public employers are also obligated to give a preference to veterans and disabled veterans in the same manner as in hiring. If a veteran or a disabled veteran is already employed by the public employer and seeks a promotion, the five point preference for veterans and the ten point preference for disabled veterans is applied at every stage of that process.

However, the preferences described above do not create a requirement that the public employer appoint a veteran or disabled veteran to the position. ORS 408.230 (5) provides that "the employer may base a decision not to appoint the veteran or disabled veteran solely on the veteran's or disabled veteran's merits or qualifications with respect to the vacant civil service position." Just because a veteran is in the pool of successful applicants does not mean the public employer is required to hire him or her for the position.

If the public employer does not use a numerical score for hiring or promotion decisions, the employer is still required to devise and apply a method by which special consideration is given to veterans. Whether or not a numerical score is used, if the veteran is not successful in the hiring or promotion process, upon written request the employer is required to provide the reasons for the decision not to hire the veteran to the position. This means that a public employer may have to be able to demonstrate that the successful candidate was more qualified for the position **after** special consideration was given to the veteran.

For more information about this subject, please consider attending our upcoming seminar for state agencies on veterans' preference, currently scheduled for December 8 in Salem. The seminar is free of charge, but registration is required and space is limited. For additional information and a full schedule of seminars and other services provided by the Technical Assistance to Employers program, visit the website at www.oregon.gov/BOLI/TA or call 971-673-0824.