

DIVISION 6

VETERANS' PREFERENCE IN EMPLOYMENT

839-006-0435

(1) It is the policy of the State of Oregon that a public employer grant a preference in hiring and promotion to veterans and disabled veterans under the provisions of ORS 408.230(1), (2), (3) and (5).

(2) The requirement to grant a preference in hiring and promotion to veterans and disabled veterans under the provisions of ORS 408.230(1), (2), (3) and (5) applies only to a public employer's civil service positions.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 408.230, 408.235, 659A.885

839-006-0440

Definitions

(1) "Active duty" does not include attendance at a school under military orders, except schooling incident to an active enlistment or a regular tour of duty, or normal military training as a reserve officer or member of an organized reserve or a National Guard unit.

(2) "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof. (Title 38 USC Part I Chapter 1 Section 101). Reserve components mean:

(a) The Army Reserve;

(b) The Navy Reserve;

(c) The Marine Corps Reserve;

(d) The Air force Reserve;

(e) The Coast Guard Reserve;

(f) The Army National Guard of the United States; and

(g) The Air National Guard of the United States.

(3) “Civil service position” means a position that requires merit-based selection and promotion to be ascertained by competitive examination. Such positions need not be denominated “civil service” positions.

(4) “Combat zone” means an area designated by the President of the United States by executive order in which, on the dates designated by executive order, the Armed Forces of the United States are or have engaged in combat.

(5) “Disabled veteran” means a person entitled to disability compensation under the laws administered by the U.S. Department of Veterans Affairs, a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty or a person who was awarded the Purple Heart for wounds received in combat.

(6) “Military leave” means any period of time for which a person is absent from a permanent civil service position for the performance of active duty in the Armed Forces of the United States.

(7) “Public employer” means the state or any agency or political subdivision of the state and any person authorized to act on behalf of the state or any agency or political subdivision of the state with respect to control, management or supervision of any employee. “Public employer” includes:

(a) Employers in local governments;

(b) Employers of a public corporation created under a statute of this state and specifically designated as a public corporation; and

(c) Employers of any entity that is created by statute, ordinance or resolution that is not part of state government or local government.

(8) “Veteran” means a person who:

(a) Served on active duty with the Armed Forces of the United States:

(i) For a period of more than 178 consecutive days and was discharged or released from active duty under honorable conditions;

(ii) For 178 days or less and was discharged or released from active duty under honorable conditions because of a service-connected disability; or

(iii) For at least one day in a combat zone and was discharged or released from active duty under honorable conditions; or

(b) Received a combat or campaign ribbon for service in the Armed Forces of the United States.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 408.230, 408.235, 659A.885

839-006-0445

Eligibility for Employment Preference

(1) A veteran is eligible to use the preference provided for in OAR 839-006-0450 and 839-006-0455 only for a position for which application is made within 15 years of discharge or release from service in the Armed Forces of the United States. Such time limit will not apply in the case of a disabled veteran.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 408.230, 408.235, 659A.885

839-006-0450

Applying the Employment Preference

(1) A public employer will grant a preference to a veteran or disabled veteran who successfully completes an initial application screening or an application examination or a civil service test the public employer administers to establish eligibility for a vacant civil service position.

(a) For an initial application screening used to develop a list of persons for interviews, the public employer will add five preference points to a veteran's score and ten preference points to a disabled veteran's score.

(b) For an application examination, given after the initial application screening, that results in a score, the public employer will add five preference points to a veteran's and ten preference points to a disabled veteran's total combined examination score without allocating the points to any single feature or part of the examination.

(c) If a public employer uses an application examination that consists of an evaluation method of ranking an applicant that does not result in a score, the public employer will devise and apply methods by which the public employer gives special consideration in the public employer's hiring decision to veterans and disabled veterans.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 408.230, 408.235, 659A.885

839-006-0455

Employment Preference for Promotions

(1) Whether or not the person qualifies for a preference under 839-006-0450, a public employer will grant to a person the public employer has hired for a permanent civil service position a veteran's or disabled veteran's preference if the person seeks promotion to a position with a higher maximum salary rate and the person:

(a) Was granted military leave by the public employer to serve in the Armed Forces of the United States;

(b) Returned from military leave to the civil service position;

(c) Qualified as a veteran or disabled veteran, as defined in OAR 839-006-0440(5) and (8), by reason of the person's service during military leave or otherwise;

(d) Successfully completed a test or examination for the position; and

(e) Meets the minimum qualifications and any special qualifications for the position.

(2) If a person meets the criteria for a promotional preference under subsection (1) of this rule, the public employer will add five preference points to a veteran's score and ten preference points to a disabled veteran's score.

(3) For the purposes of a promotional preference under subsection (1) of the rule, if a public employer uses an application examination that consists of an evaluation method of ranking an applicant that does not result in a score, the public employer will devise and apply methods by which the public employer gives special consideration in the public employer's hiring decision to veterans and disabled veterans.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 408.230, 408.235, 659A.885

839-006-0460

Appointment to a Position

(1) A public employer will appoint an otherwise qualified veteran or disabled veteran to a vacant civil service position if the results of a veteran's or disabled veteran's application examination, when combined with the veteran's or disabled veteran's preference, are equal to or higher than the results of an application examination for an applicant who is not a veteran or disabled veteran.

(2) Preferences of the type described in OAR 839-006-0450 and 839-006-0455 are not a requirement that a public employer appoint a veteran or disabled veteran to a civil service position.

(a) A public 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.

(3) If a public employer does not appoint a veteran or disabled veteran to a vacant civil service position, upon written request of the veteran or disabled veteran, the public employer, will provide the public employer's reasons for the decision not to appoint the veteran or disabled veteran to the position.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 408.230, 408.235, 659A.885

839-006-0465

Certification

(1) A public employer may require an applicant to provide certification that the person is an eligible veteran or disabled veteran under OAR 839-006-0440(5) and (8).

(2) An applicant for a position with a public employer claiming veteran's or disabled veteran's preference points may submit as certification of eligibility under OAR 839-006-0440(5) and (8) a copy of the Certificate of Release or Discharge from Active Duty (a federal DD Form 214 or 215) with the application for employment.

(a) Disabled veterans may also submit a copy of their veteran's disability preference letter from the U.S. Department of Veterans Affairs, unless the information is included in the federal DD Form 214/215.

(3) If certification is unavailable, the public employer may provisionally designate an applicant as an eligible veteran or disabled veteran until sufficient certification is received.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 408.230, 408.235, 659A.885

839-006-0470

Enforcement

The Civil Rights Division of the Bureau of Labor and Industries enforces the provisions of ORS 408.230. A person claiming a violation of ORS 408.230 may file a verified written complaint with the Civil Rights Division in accordance with ORS 659A.820.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 408.230, 408.235, 659A.885