

CHAPTER 5

VETERANS AND DISABLED VETERANS PREFERENCE

Authority

N.J.S.A. 11A:4-1(e), 11A:4-8, 11A:4-9, 11A:5-1 through 11A:5-8, 11A:5-15.

Source and Effective Date

R.1992 d.415, effective September 22, 1992.
See: 24 N.J.R. 2495(a), 24 N.J.R. 3719(a).

Executive Order No. 66(1978) Expiration Date

Chapter 5, Veterans and Disabled Veterans Preference, expires on September 22, 1997.

Chapter Historical Note

Chapter 5, Veterans and Disabled Veterans Preference, was adopted as R.1987 d.404, effective October 5, 1987. See: 19 N.J.R. 1018(a), 19 N.J.R. 1827(a). See, also, annotations at repealed N.J.A.C. 4:1-10.3, Veterans preference. Pursuant to Executive Order No. 66(1978), Chapter 5 was readopted as R.1992 d.415. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. ELIGIBILITY

- 4A:5-1.1 Veterans preference
- 4A:5-1.2 Disabled veterans preference
- 4A:5-1.3 Filing for veterans or disabled veterans preference

SUBCHAPTER 2. USE OF PREFERENCE

- 4A:5-2.1 Open competitive examinations
- 4A:5-2.2 Promotional examinations
- 4A:5-2.3 Veterans and disabled veterans preference in the noncompetitive division

SUBCHAPTER 1. ELIGIBILITY

4A:5-1.1 Veterans preference

(a) A person is entitled to veterans preference (abbreviated as "V") if he or she:

1. Served at least 90 days in the active United States military or naval service and had been discharged under conditions other than dishonorable, during:
 - i. World War I, between April 6, 1917 and November 11, 1918;
 - ii. World War II, on or after September 16, 1940 and on or before December 31, 1946;

iii. Korean Conflict, on or after June 23, 1950 and on or before January 31, 1955; or

iv. Vietnam Conflict, on or after December 31, 1960 and on or before May 7, 1975;

v. The 90 day period must have begun on or before one of the ending dates above, and shall not include any period of education or training under the Army Specialized Training Program or the Navy College Training Program which was a continuation of a civilian course, nor any time spent as a cadet or midshipman at one of the service academies. During the period of the Vietnam conflict, the following are excluded: any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code; or any service performed pursuant to enlistment in the National Guard or the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve or Coast Guard Reserve.

2. Served in the Lebanon peacekeeping mission or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days. The 14 days must have commenced on or after September 26, 1982 and on or before February 26, 1984;

3. Served in the Grenada peacekeeping mission or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days. The 14 days must have commenced on or after October 25, 1983 and on or before November 21, 1983;

4. Served in the Panama peacekeeping mission or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days. The 14 days must have commenced on or after December 20, 1989 and on or before January 31, 1990;

5. Served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for the Operation Desert Shield/Desert Storm mission for a period, continuous or in the aggregate, of at least 14 days. The 14 days must have commenced on or after August 2, 1990;

6. Received a service-incurred injury or disability during a period in (a)1 above, regardless of the length of service;

7. Served in any army or navy of the United States allies in World War I between July 14, 1914 and November 11, 1918, or World War II between September 1, 1939 and September 2, 1945, provided he or she voluntarily enlisted in such service, was a United States citizen at the time of enlistment, did not renounce or lose United States citizenship, and was honorably discharged; or

8. Is the surviving spouse of a person entitled to veterans preference and has not remarried.

Amended by R.1992 d.415, effective October 19, 1992.
See: 24 N.J.R. 2495(a), 24 N.J.R. 3719(a).

Revised (a)1i through iv; added new (a)2.-5.; redesignated existing (a)2.-4. as (a)6.-8.

Case Notes

Veteran's preference denied. *McHale v. Civil Service Comm'n.*, 178 N.J.Super. 371, 429 A.2d 373 (App.Div.1981) certification denied 87 N.J. 402, 434 A.2d 1081.

4A:5-1.2 Disabled veterans preference

(a) A person is entitled to disabled veterans preference (abbreviated as "DV") if he or she:

1. Receives or is entitled to receive, under United States Veterans Administration guidelines, compensation for service connected disability of 10 percent or more arising out of military or naval service during any of the periods in N.J.A.C. 4A:5-1.1(a);

2. Is the spouse of a person entitled to disabled veterans preference who:

i. Is not employed by any jurisdiction operating under Title 11A, New Jersey Statutes; and

ii. Waives any right to preference for the duration of the spouse's employment;

3. Is the surviving spouse of a person entitled to disabled veterans preference and has not remarried; or

4. Is a parent or surviving spouse of a person who would have been entitled to veterans preference under N.J.A.C. 4A:5-1.1 but who died while in service. The use of the preference by one such survivor shall suspend the right of any other so long as the first individual who uses the preference is employed by any jurisdiction operating under Title 11A, New Jersey Statutes.

4A:5-1.3 Filing for veterans or disabled veterans preference

(a) To establish veterans or disabled veterans preference, an individual must submit a completed "Veterans Preference Claim Form" (DPF-189) along with a copy of Veterans Separation Papers (Form DD214) to the New Jersey Department of Personnel, CN 310, Trenton, New Jersey 08625.

(b) When an individual does not possess Veterans Separation Papers and the Veterans Administration or National Personnel Records Center copy has been destroyed, the applicant must submit a letter from the appropriate agency attesting to the destruction of such records and a notarized statement by the applicant attesting to the dates of active service, branch of service, rank and type of discharge.

(c) Veterans or disabled veterans preference is effective for all examinations in which the closing date for applications falls on or after the filing of the required documents.

(d) For initial employment in the noncompetitive division, documentation to establish veterans or disabled veterans preference shall be furnished by the applicant to the appointing authority prior to hiring or within a reasonable time thereafter as permitted by the appointing authority. However, veterans and disabled veterans preference shall not be applied for promotion to a competitive title until the required documents have been filed with the Department of Personnel.

SUBCHAPTER 2. USE OF PREFERENCE

4A:5-2.1 Open competitive examinations

(a) A list of eligibles who have passed an open competitive examination shall appear in the following order:

1. Eligibles entitled to disabled veterans preference in the order of their scores;

2. Eligibles entitled to veterans preference in the order of their scores;

3. Non-veteran eligibles (abbreviated as "NV") in the order of their scores.

(b) Whenever more than one eligible has the same score and same veterans status, the tie shall not be broken and they shall have the same rank.

(c) Whenever a disabled veteran or veteran is certified from an open competitive list and a regular appointment is to be made, the appointing authority shall first appoint disabled veterans and then veterans in the order of ranking. For example:

TEST SCORES			RANKED LIST OF ELIGIBLES		
Name and Status	Score		Name and Status	Score	Rank
John Green (NV)	90		Robert Brown (DV)	80	1
Charles Black (V)	85		Charles Black (V)	85	2
Mary White (V)	85		Mary White (V)	85	2
Robert Brown (DV)	80		John Green (NV)	90	3
Jane Silver (NV)	80		Jane Silver (NV)	80	4
Tom Gold (NV)	75		Tom Gold (NV)	75	5

Assuming all eligibles are interested in appointment, Robert Brown must receive the first appointment. The next vacancy must be filled by appointing either Charles Black or Mary White. Assuming Mary White is appointed, the next vacancy must be filled by appointing Charles Black. The next vacancy must be filled by choosing among John Green, Jane Silver and Tom Gold, in accordance with the "rule of three." See N.J.S.A. 11A:4-8.

(d) Appointing authorities are not required to give preference to disabled veteran or veterans when making a provisional appointment from an incomplete list. See N.J.A.C. 4A:4-1.5.

Administrative Correction to (d).
See: 23 N.J.R. 2500(c).

4A:5-2.2 Promotional examinations

(a) No distinction shall be made between disabled veterans and veterans in promotional examinations. Both are referred to as veterans in this rule.

(b) A list of eligibles who have passed a promotional examination shall appear in the order of their scores regardless of veteran or nonveteran status. However, when scores are tied, the names of veterans shall be listed first within each rank.

(c) Whenever the name of a veteran appears in the highest rank on a promotional certification, a nonveteran shall not be appointed unless the appointing authority shows cause why the veterans should be removed from the promotional list. See N.J.A.C. 4A:4-4.7 for removal procedures.

(d) If the names of one or more veterans appear on a promotional certification headed by a veteran, any veteran among the top three interested eligibles may be appointed in accordance with the "rule of three." See N.J.S.A. 11A:4-8.

(e) Whenever a nonveteran heads a promotional certification, any reachable eligible may be appointed in accordance with the "rule of three." See N.J.S.A. 11A:4-8.

(f) As an example, assume that the following represents the ranked order and status of interested eligibles which appear on promotional certifications:

1. Veteran 2. Non-Veteran 3. Non-Veteran
Veteran must be offered the appointment.

1. Veteran 2. Non-Veteran 3. Veteran
Either (1) or (3) must be offered the appointment.

1. Non-Veteran 2. Veteran 3. Non-Veteran
Either (1), (2) or (3) may be offered the appointment.

1. Veteran (Tied) 1. Non-Veteran (Tied) 2. Non-Veteran

Veteran must be offered the appointment.

Administrative Correction to (c).
See: 23 N.J.R. 2500(c).

Case Notes

Veteran's preference in regard to sex discrimination. *Ballou v. State Department of Civil Service*, 75 N.J. 365, 382 A.2d 1118 (1978).

4A:5-2.3 Veterans and disabled veterans preference in the noncompetitive division

In making appointments in the noncompetitive division, preference shall be given among qualified applicants to disabled veterans, then veterans.