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Veterans' Preference in Hiring

Public and Private Sector Employment

Objectives

Learn to understand and be able to apply Veterans' Preference in one or more of the following circumstances:

- When an examination is administered for public employment;
- When no examination is administered for public employment; and
- Private employment.

NOTES:

- What is a veteran? The definition is different when looking at the various types of preference.
- Serving during a “period of war” does not require foreign or overseas service or the award of a campaign badge or ribbon; instead, merely serving during a period of war suffices.
- Armed Forces are the US Army, US Navy, US Marine Corps, US Air Force, and US Coast Guard.

PART 1

Veterans' Scoring Criteria Status

When examinations are administered for public employment

What is a Period of War?

For the purposes of scored public examinations, a period of War is defined by RCW 41.04.005 as:

- World War I (April 16, 1917 to November 11, 1918)
- World War II (December 7, 1941 to December 31, 1946)
- The Korean Conflict (June 27, 1950 to January 31, 1955)
- Vietnam Era (Aug 5, 1964 to May 7, 1975)
 - February 28, 1961 to May 7, 1975, if the veteran served in the Republic of Vietnam
- Persian Gulf War (Aug 2, 1990 to a date prescribed by presidential proclamation or law.)

What is Armed Conflict?

Participation in any of the following:

- Crisis in Lebanon (June 1, 1983 to December 1, 1987)
- Grenada, Operation Urgent Fury (October 23, 1983 to November 21, 1983)
- Panama, Operation Just Cause (December 20, 1989 to January 31, 1990)

OR the award of any of the following campaign badges or medals:

- Armed Forces Expeditionary Medal
- Marine Corps Expeditionary Medal
- Navy Expeditionary Medal

Public Employment: Scored Examinations

- Veterans' preference points
- Covered by RCW 41.04.010
- Only used in public employment when examinations are used for ranking eligible candidates

Who qualifies for Veterans' Scoring Criteria status?

Veterans as defined in RCW 41.04.007 who:

- Received an *honorable discharge**, or
- Received a discharge for medical reasons with an honorable record, or
- Is in receipt of a United States department of defense discharge document DD form 214, NGB form 22, or their equivalent or successor discharge paperwork, that characterizes his or her service as honorable,
- **AND** has served in at least one of the following capacities:

Who Qualifies (cont.)

- As a member in any branch of the armed forces of the United States, including the national guard and armed forces reserves, **and has fulfilled his or her initial military service obligation**;
- As a member of the armed forces reserves, national guard, or coast guard, **and has been called into federal service** by a presidential select reserve call up **for at least one hundred eighty cumulative days**;
- *there are several other qualifying services; please refer to RCW 41.04.007

How is Veterans' Scoring Criteria status applied to applicants?

- Ten percent to a veteran who served during a period of war or in an armed conflict and does not receive military retirement.
- Five percent to a veteran who did not serve during a period of war or in an armed conflict.
- Five percent to a veteran who is receiving military retirement.
- In all cases, the percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment

* these percentages do not cover promotional testing, which has its own separate, specific requirements

PART 2

Veterans' Preference in Public Employment

When no examination is administered for public employment

Who is Eligible?

- Veterans who have been honorably released from active military service.
- Surviving spouses and registered domestic partners of honorably discharged veterans of any war of the United States.
- Spouses or registered domestic partners of honorably discharged veterans who have a service connected permanent and total disability.

How is this Preference Applied?

- According to the finding in *Gossage*, this preference operates as a **tie-breaker among equally qualified candidates**, not as an absolute preference for veterans.
- Where two or more candidates for employment have equal qualifications, including performance on examinations, interviews, and other testing, preference **must** be given the veteran.

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PART 3

Veterans' Preference in Private Employment

Preference in Private Employment—Permissive

- Covered by RCW 73.16.110
- Instituted in 2011
- *Voluntary* for private employers

What Does the Law Say?

- This is a permissive preference in private employment for certain veterans.
- In every private, nonpublic employment in this state, honorably discharged soldiers, sailors, and marines who are veterans of any war of the United States, or of any military campaign for which a campaign ribbon has been awarded, and their widows or widowers, may be preferred for employment.
- Spouses of honorably discharged veterans who have a service connected permanent and total disability may also be preferred for employment. These preferences are not considered violations of any state or local equal employment opportunity law, including but not limited to any statute or regulation adopted under chapter 49.60 RCW.
- "Veteran" has the same meanings as defined in RCW 41.04.005 and 41.04.007, and includes a current member of the national guard or armed forces reserves who has been deployed to serve in an armed conflict.

Why a Permissive Preference?

- Title VII specifically authorized Veterans' preference in hiring in public employment.
- However, as a result of long-standing federal statutes, regulations, and policies that have excluded women or sharply limited women's eligibility to serve in the armed forces and also of the fact that women have never been subjected to a military draft, only a very small percentage of veterans are women⁴ and, consequently, veterans' preference statutes operate overwhelmingly to the advantage of men.

Why Enact a Law?

- Despite their potential for adversely affecting the employment opportunities of women, veterans' preferences accorded pursuant to statute are not subject to challenge under Title VII by virtue of the exception provided in Section 712 of the Act.⁶ That section states:
 - *Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.*

How Does it Work?

- By creating a law which allows a private employer to prefer the hiring of veterans, Title VII is not violated.
- By the wording in RCW 73.16.110, both Veterans and spouses/registered domestic partners of certain qualifying veterans are eligible for preference in hiring.
- The statute does not mandate nor regulate how a private employer may utilize this permissive preference.



QUESTIONS?