

IDAHO STATE VETERANS PREFERENCE

Frequently Asked Questions for Public Employers

Which employers must give the Idaho veteran's preference?

The Idaho legislature has granted preference to veterans and certain family members when applying for positions with the state, county, city and other local public employers such as taxing districts for sewers, roads, schools and cemeteries.

The United States Congress has also granted preference to veterans. Some federal contractors are subject to federal veteran's preference. Application of the federal veteran's preference is outside the scope of this Frequently Asked Questions. An Idaho public employer should consult with its legal counsel to determine if it is subject to federal veteran's preference.

Reference: Idaho Code title 65 chapter 504 (2011).

Which applicants are entitled to Idaho Veterans Preference?

The following applicants are entitled to Idaho veteran's preference:

- Honorably Discharged members of the armed forces of the United States who served on active duty during the following periods:
 - In a campaign or expedition for which a campaign badge has been authorized;
 - During the period from April 28, 1952 to July 1, 1955;
 - For a period of more than 180 consecutive days any part of which occurred between February 1, 1955 and October 14, 1976 (with certain exceptions for reserve service);
 - During the period between August 2, 1990 and January 2, 1992; or,
 - For a period of more than 180 consecutive days any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom.

Please note that the above list is flexible in that it changes automatically with a change to the law defining eligibility for federal veteran's preference, which can be found at 5 USC section 2108.

- Disabled veterans as defined in section [65-502](#), Idaho Code.
- The widow or widower of any veteran eligible for preference so long as he or she remains unmarried.
- The wife or husband of a service-connected disabled veteran is eligible for preference if the veteran cannot qualify for any public employment because of a service-connected disability.

Reference: Idaho Code §§ 65-502(17) and 65-503 (2011).

What are my responsibilities in the hiring process?

- Include Idaho veteran's preference in your hiring materials. Idaho public employers must give notice in all announcements and advertisements of vacancies that Idaho veteran's preference will be given to qualified applicants.
- Application forms must inquire whether the applicant is claiming Idaho veteran's preference and whether the applicant has previously claimed Idaho veteran's preference.

- Idaho public employers must inform applicants of requirements for documentation concerning eligibility for Idaho veteran's preference.
- Apply Idaho veteran's preference when selecting an applicant to fill a position.
- Provide notice of your appeal process to applicants who claim Idaho veteran's preference and are not selected.

Reference: Idaho Code §§ 65-503A, 65-504, and 65-506 (2011).

Which positions and employment changes are subject to Idaho veteran's preference?

An applicant does not receive Idaho veteran's preference for every public position or for all position changes. Idaho veteran's preference does not apply to:

- Internal employer actions such as promotions, transfers, and reassignments.
Please note, however, that some Idaho public employers have provided additional protections to veterans during reductions in force and other employment actions.
- A second position with the same public employer.
- A break in service with the public employer does not reinstate the Idaho veteran's preference.
- Application to another office, division or agency of the public employer also does not reinstate the Idaho veteran's preference.
- Certain key employee positions, elected offices, temporary or casual positions, jobs held by patients, inmates or students in or enrolled at a state institution.

Reference: Idaho Code §§ 65-502(6)(7)(9) and (16), 65-503A(2), and 65-504(1) (2011).

Can the applicant's actions remove their eligibility for Idaho Veterans Preference?

A public employer can refuse to accept an application from an otherwise qualified preference eligible applicant who is deemed unqualified through his or her actions. Examples include dismissal for cause from a public entity, a felony conviction or conduct unbecoming a public employee.

Reference: Idaho Code §§ 65-503A(5) (2011).

How do I apply Idaho veteran's preference?

The Idaho veteran's preference laws use defined terms that may vary the meaning of terms a public employer uses in its own hiring processes. Public employers should familiarize themselves with the terms used in Idaho Code title 65 chapter 5 to avoid confusion and misapplication of the Idaho veteran's preference.

Idaho veteran's preference varies with the type of selection process used and whether the veteran applicant has a service-connected disability:

- For positions where applicants are subject to a rating system based on experience and qualifications (a "civil service position" defined in Idaho Code section 65-502(3)), an applicant qualified for Idaho veteran's preference receives a basic preference of a five percentage point increase to the rating otherwise earned from the applicant's experience and qualifications. A veteran with a ten percent service-connected disability receives an enhanced preference of a ten percentage point increase to their earned rating. A veteran with a thirty percent service-connected disability is entitled to an interview if they possess all the qualifications for the position. The public employer may limit the number of interviews to ten if there are more than ten qualified applicants with a thirty percent service-connected disability.

- For positions where the applicants are not subject to a rating system, a veteran is entitled to preference with an Idaho public employer over other applicants for the same position who are not more qualified.
Reference: Idaho Code §§ 65-504 (2011).

When must a public employer accept a late application under the Idaho veteran's preference?

In some cases a veteran can file a late application. If a veteran misses the closing date due to military service or for service-connected hospitalization, the veteran can file an application for up to one year after discharge from military service or hospitalization. A disabled veteran can also file a late application to be on an open hiring list if the veteran has not already been examined twice for the same position and grade, is not already on the hiring list, and is not currently serving in a position in the same grade covered by the hiring list. Late application is not allowed if the hiring list has expired, the selection process is no longer active or the position has been filled.

Reference: Idaho Code §§ 65-503A(3)(4) (2011).

What type of appeal process is a public employer required to offer?

Public employers should consult with their legal counsel to determine if an appeal process is in place and whether the process complies with the requirements of Idaho Code title 65 chapter 5. Public employers may adopt the basic process established by the Idaho Division of Veterans Services pursuant to Idaho Code section 65-506(2). The basic process can be found at IDAPA 21 title 01 chapter 06 (IDAPA 21.01.06). A public employer's decision is subject to review by an Idaho district court

Reference: Idaho Code §§ 65-506 (2011).

What are the penalties for failing to apply Idaho veteran's preference?

Idaho law allows a court to direct the public employer to properly apply Idaho veteran's preference, to award the costs of suit and the reasonable attorney fees of an applicant successfully claiming a violation of Idaho veteran's preference, and to award damages. Damages cannot exceed \$5,000 or 10 percent of the annual salary of the position, whichever is higher. The damages cap includes any amount awarded for the costs of suit.

Reference: Idaho Code §§ 65-506(3) (2011).