Top 10 Tips for Successfully Applying Veterans' Preference

Presented by:

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Oregon Veterans' Preference

- Oregon law since the 1970s



- But we still struggle with it

- Veterans' Preference law
  - Requires public employers to grant certain preferences in the hiring and promotion of veterans and disabled veterans

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Your Resource Slide:

Oregon Revised Statutes (ORS) Sec. 408.225-237

Oregon Administrative Rules (OAR) 839-006-0480

BOLI Website: https://www.oregon.gov/boli/workers/Pages/veterans-preference.aspx

BOLI Veterans' Preference Guidance:
https://www.oregon.gov/boli/workers/Pages/veterans-preference.aspx

Oregon State Governments Veterans' Preference Guide
https://www.oregon.gov/das/HR/Documents/Veteran%20Preference%20Guide.pdf.

Ask me (I love this stuff)!

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10 Tips – Successfully Applying Veterans' Preference

1. Understand what openings the preference must be applied
2. Define a special assignment versus a promotion
3. Refer to the law in the job announcement
4. Know how to identify a qualifying veteran
5. Identify when preference is applied in the process
6. Identify when preference is NOT applied in the process
7. Interview veterans when required
8. Score your selection process
9. Prepare an explanation if the veteran is not selected
10. Have a written policy

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1. To What Openings Does the Preference Apply?

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Does Veterans' Preference apply to a City Manager position?

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Preference Applies to Civil Service Positions

- Veterans' preference applies to "a vacant civil service position"
  - Great, we don't have civil service positions!
  - Not so fast

- Civil service position means any position for which hiring or promotion decision is made … based on the results of a merit, *competitive process* that includes but is not limited to consideration of … relative ability, knowledge, experience and other skills

- May include executive-level jobs (e.g., City Manager)

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Preference Does NOT Apply to Appointments

- If a position does not involve a decision based on the results of a competitive process, preference does not need to be applied



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2. Is this an Assignment or Promotion?

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What are examples of Special Assignments used by your City?

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Define Special Assignments Clearly

- A promotion means any position with a higher maximum **salary rate**

- Special Assignments
  - May provide premium pay on top of the salary rate
  - Temporary in nature
  - Based on special conditions

- You can set it up







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3. What Does Your Job Announcement Say?

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Job Announcements Should Reference Preference

- **Veterans' Preference**: Under Oregon law, qualified veterans may be eligible for Veterans' Preference. If you are a veteran and would like to request Veterans' Preference for this job, please provide qualifying documents (copy of the Certificate of Release or Discharge from Active Duty, DD Form 214 or 215; Disabled Veterans must also submit a copy of their Veteran's Disability Preference Letter from the U.S. Department of Veterans Affairs; certification of expectation to be discharged within 120 days) with your application submittal.
- Documentation must be received by the closing date and time of this recruitment for the applicant to receive Veterans' Preference.

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4. Who Is an Eligible Veteran?

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Definition of a Veteran

- Served on active duty
  - 178 consecutive days
  - 1 day in a "combat zone"
  - Receipt of an "under honorable" discharge
- Is receiving a non-service-connected pension from the VA
- For a list of qualifying medals and campaigns, see http://www.opm.gov/staffportal/vgmedal2.asp

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Does "active duty" time include service to a National Guard unit?

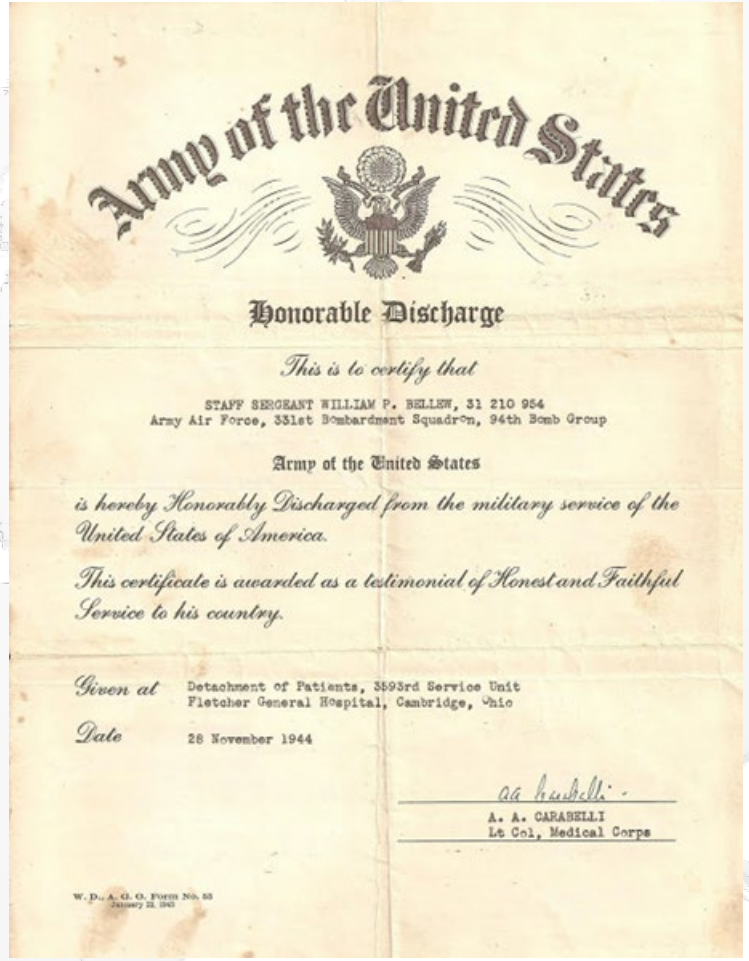
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Disabled Veteran

- Has a disability rating from the U.S. Department of Veterans Affairs
- Is a veteran whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty
- Is a veteran who was awarded the Purple Heart for wounds received in combat

Types of Discharges Received

- Administrative
  - Honorable
  - General (under honorable conditions)
  - Other than Honorable
- Criminal/Court-Martial
  - Bad Conduct
  - Dishonorable
- Preference is after discharge or release from service
  - What about terminal leave?
  - SB 184 fix
- Eligible for life



Army of the United States

Honorable Discharge

This is to certify that

STAFF SERGEANT WILLIAM P. BELLEW, 31 210 954
Army Air Force, 331st Bombardment Squadron, 94th Bomb Group

Army of the United States

is hereby Honorably Discharged from the military service of the United States of America.

This certificate is awarded as a testimonial of Honest and Faithful Service to his country.

Given at Detachment of Patients, 3593rd Service Unit
Fletcher General Hospital, Cambridge, Ohio

Date 28 November 1944

A. A. CARABELLI
Lt Col, Medical Corps

W. D., A. G. O. Form No. 53
January 22, 1943

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5. When Do You Apply Preference During a Process?

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Preference Is Applied at Each Stage in the Process

- OAR 839-006-0450 (2)
- Begs the question – what is a stage?
- No definition of a "stage" in the statute or regulation
- "Stage" in the selection process is a reduction in the applicant pool
  - *Davis v. Tri-County Metro. Transp. Dist. of Or.* (201 U.S. Dist. LEXIS 124968, 2014)
  - *Multnomah County Sheriff's Office v. Edwards*, 277 Or App 540 (2015)

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6. When Do You NOT Apply Preference During a Process?

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The Initial Screening Process

- Veterans must meet any minimum and special qualifications on their own

- "Minimum Qualifications"
  - Look at the job announcement (i.e., admission to the Oregon State Bar for city attorney position)

- "Special Qualifications"
  - Qualifications added to minimum qualifications necessary at the time of appointment based on specific duties of the position to be filled. Special Qualifications may include, but are not limited to bilingual skills or licenses, permits and certifications required by law. OAR 105-040-0030(1)(d)
  - BOLI applies a DAS rule

7. Do You Know When a Veteran Must Receive an Interview?

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Veteran is Entitled to an Interview if…

- ORS 408.237 states employer must interview each and all veterans who:
  - Meet the minimum and special qualifications
  - Submit application materials demonstrating *transferrable skills*

- Transferable Skill means "a skill the veteran has obtained through military education or experience that substantially relates, directly or indirectly, to the civil service position for which the veteran is applying."



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How Should I Know Transferable Skills?

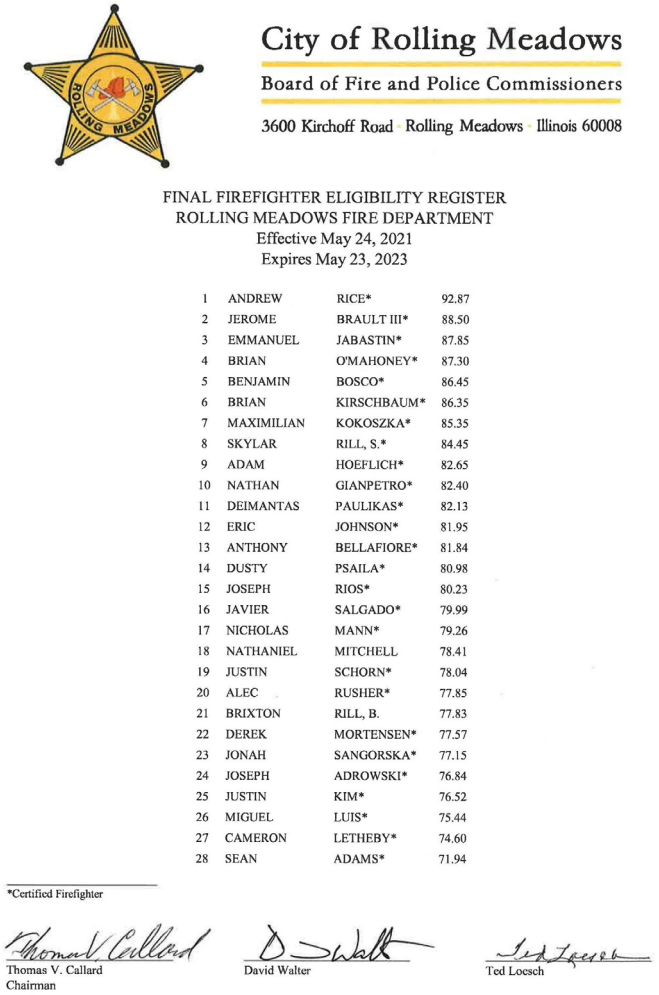
- Oregon Department of Veterans' Affairs
  - www.oregon.gov/ODVA
- Oregon Military Department
  - www.oregon.gov/OMD
  - 503/584-3980
- American Council on Education: A Guide to the Evaluation of Educational Experiences in the Armed Services
  - http://www.acenet.edu/news-room/Pages/Military-Guide-Online.aspx
- *Ask me!*
  - Kyle.Abraham@Ogltree.com
  - 503-302-3298

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Exception to the Interview Requirement

- A process that involves an eligibility list does not require an interview

- A list of ranked, eligible candidates for a civil service position who have become eligible through one or more tests and who will be considered in ranked order



City of Rolling Meadows
Board of Fire and Police Commissioners
3600 Kirchoff Road · Rolling Meadows · Illinois 60008

FINAL FIREFIGHTER ELIGIBILITY REGISTER
ROLLING MEADOWS FIRE DEPARTMENT
Effective May 24, 2021
Expires May 23, 2023

1	ANDREW	RICE*	92.87
2	JEROME	BRAULT III*	88.50
3	EMMANUEL	JABASTIN*	87.85
4	BRIAN	O'MAHONEY*	87.30
5	BENJAMIN	BOSCO*	86.45
6	BRIAN	KIRSCHBAUM*	86.35
7	MAXIMILIAN	KOKOSZKA*	85.35
8	SKYLAR	RILL, S.*	84.45
9	ADAM	HOEFLICH*	82.65
10	NATHAN	GIANPETRO*	82.40
11	DEIMANTAS	PAULIKAS*	82.13
12	ERIC	JOHNSON*	81.95
13	ANTHONY	BELLAFIORE*	81.84
14	DUSTY	PSAILA*	80.98
15	JOSEPH	RIOS*	80.23
16	JAVIER	SALGADO*	79.99
17	NICHOLAS	MANN*	79.26
18	NATHANIEL	MITCHELL	78.41
19	JUSTIN	SCHORN*	78.04
20	ALEC	RUSHER*	77.85
21	BRIXTON	RILL, B.	77.83
22	DEREK	MORTENSEN*	77.57
23	JONAH	SANGORSKA*	77.15
24	JOSEPH	ADROWSKI*	76.84
25	JUSTIN	KIM*	76.52
26	MIGUEL	LUIS*	75.44
27	CAMERON	LETHEBY*	74.60
28	SEAN	ADAMS*	71.94

*Certified Firefighter

Thomas V. Callard
Chairman

David Walter

Ted Loesch

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8. To Score or Not to Score, Is Not a Question…Just Score It

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Apply the Preference by Scoring

- Using a scored process

- SB 184
  - Add 5 ***percentage*** points to a veteran
  - Add 10 ***percentage*** points to a disabled veteran

- Repeat at each stage in the selection process

If you don't score, you must give "***special consideration***" to veterans.

OAR 839-006-0450(5)

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What do you think counts as "Special Consideration?"

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BOLI's Guidance on Special Consideration

Numerical Score (or not)

- Presumably, the 5 and 10 point preferences for veterans and disabled veterans are on a 100 point scale, but the law does not say!

- What if the employer does not use a numerical score? There must still be a preference. The employer must devise and apply a method that gives special consideration to veterans. OAR 839-006-0450(4)
- How would that work exactly? You tell me! Describe the taste of Dr. Pepper. Can't do it, can you? Maybe a numerical score would be better after all.





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Selection Process

- Law does not require veteran applicant be hired
- Select applicant with the highest score/top candidate
- Tie goes to the vet



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9. Prepare an Explanation if a Veteran Is Not Selected

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The Law Does NOT Require Selecting the Veteran

- The employer may base a decision ***not*** to hire a veteran or disabled veteran on that person's merits or qualifications. ORS 408.230(5).

- If the veteran is not successful in the hiring or promotional 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

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Non-Selected Veteran Can Seek Rationale

- If the veteran is not successful in the hiring or promotional process, upon written request the employer is required to provide the reasons for the decision not to hire the veteran for the position

- This means that a public employer must be able to demonstrate that the successful candidate was more qualified for the position after special consideration was given to the veteran

10. Have a Written Policy

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Does your City have a written policy on Veterans' Preference?

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Benefits of a Written Policy

- Ensures that eligible veterans and disabled veterans are consistently granted the preference
- Ensures that preference is applied consistently and fairly at each stage of the hiring or promotion process
- Ensures that non-veteran applicants aren't incorrectly impacted by the application of the preference

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More Benefits of a Written Policy

- Doing the hard work on a policy in advance will save employers from having to adjust hiring processes on the fly, or even worse, fix problems at the end of the process

- Allows employers to promptly respond to veterans who are not selected for a position

- Provides the best defense in the event of a BOLI complaint for misapplication of the preference

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Thank you!

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