



West Chester University

Human Resources

## **VETERANS' PREFERENCE**

West Chester University

### **I. AUTHORITY:**

This policy is promulgated in accordance with The Veteran's Preference Act of 1975, a statute of the Commonwealth of Pennsylvania found at 51 Pa. C.S. 7104(a).

### **II. PURPOSE:**

The purpose of this policy is to reaffirm the University's intention to embrace the statutory hiring preference established by law for veterans.

### **III. POLICY:**

It is a policy of the University to provide a hiring preference to veterans who possess the requisite qualifications for a vacant position in recruitment and are eligible for appointment. The University shall grant hiring preference at the time when a veteran is in the finalist pool of any search. If more than one veteran is in a finalist pool, the best qualified veteran shall receive the hiring preference. As a general rule, Veteran's Preference is not applied in cases of promotion. University employees may only exercise those rights for a promotion opportunity if the employee is in a less than fulltime regular status, such as temporary, part-time, seasonal or emergency.

### **IV. DEFINITIONS:**

A. **Soldier (Veteran):** Any person discharged under honorable conditions who have served in the Armed Forces of the United States, or any women's organization connected with those forces, during any war or armed conflict; or any honorably discharged person who has served since July 27, 1953. DD-214 forms are required for verification of honorable discharge status. Honorable, good, satisfactory, indifferent and special discharges are

considered under honorable terms by the Pennsylvania Civil Service Commission. Further Commission guidance advises that persons who have not completed their initial military service commitment, including National Guard and Reserve members currently in their first term of service, are not eligible for the preference.

B. **Finalist Pool:** The group of candidates that has successfully traversed all phases of the search and is determined eligible for employment by the hiring authority utilizing the criteria established and announced prior to the start of the search. These criteria may include successful completion of an interview or series of interviews, satisfactory or exceptional work history and references, satisfactory recommendations from a search committee, as well as other demonstrations from which constituent feedback is solicited and considered.

## V. PROCEDURE:

A. **Job Qualifications:** Qualifications used as the selection criteria must be established prior to the search commencing. Qualifications must be job related and non-discriminatory.

B. **Notice of Qualifications to Applicants:** These requisite qualifications will be incorporated into public solicitations and the position description for the purpose of making them known to applicants. If an ad is abbreviated due to cost and does not contain the requisite qualifications, the ad must include a website address which can be accessed by applicants to obtain this information.

C. **Notice of Veteran's Status to University:** Declaration of veteran's status is invited through voluntary protected class self-disclosure forms which are returned by applicants for Social Equity Office use, or during the course of the interview process. Verification is accomplished by presentation of a copy of the veteran's *DD-214 form*.

D. **Search Finalist Pool:** The finalist pool must be determined by the hiring authority based on the requisite qualifications criteria established prior to the search. Per Section VI.B. of this policy, the criteria may include successful completion of an interview or series of interviews, satisfactory or exceptional work history and references, satisfactory recommendations from a search committee, as well as other demonstrations from which constituent feedback is solicited and considered. The final pool should include at least three candidates if possible, but if a veteran has been interviewed and less than three candidates are contemplated for the Finalist Pool, the Office of Social Equity should consult Legal Counsel and advise the Human Resources Office and the Hiring Authority of such guidance.

- 1 No Veteran in Finalist Pool: If no veteran is in the finalist pool, the hiring authority may select the best qualified candidate.
- 2 Veteran in the Finalist Pool: If a veteran is in the finalist pool, the veteran must be selected and offered the position.
- 3 Multiple Veteran's in Finalist Pool: If more than one veteran is in the finalist pool, the best qualified veteran must be selected and offered the position.

**VI. INTERPRETATION:** This policy shall be interpreted by the Social Equity Office.

**Appendix:**

PA CASE LAW GUIDANCE: While the statute itself gives insufficient guidance toward how the preference should be applied to searches relating to non-civil positions, Pennsylvania case law does provide meaningful direction to public employers. General Legal Opinions issued by the University Legal Office of the State System of Higher Education add to our understanding as well.

- A. Brickhouse v. Spring Ford Area School District, 540 Pa. 176, 656 A.2d 483 (1986): The employer is free to establish requisite qualifications (selection criteria) that are reasonably related to the duties to be performed so long as such requisites are not undertaken in bad faith.
- B. Dickey, Jr. v. Board of Commissioners of the City of Washington, PA and the County of Washington, 658 A.2d 876 (Pa. Cmwlth. 1995): These requisites may include skills, knowledge, abilities and other job-related requirements which go beyond those originally advertised.
- C. Dautremont v. West Chester University, 495 M.D. 1995: Citing Judge Zapalla's concurring opinion in Brickhouse, requisite qualifications under the Veteran's Preference Act, 51 Pa. C.S. 7104(a), to be applied as a meaningful criteria, must be spelled out in advance of the selection process, and not merely be subjective conclusions, formed ad hoc during or after the selection process, based on relative credentials of the actual applicants. The finalist pool consists of all candidates eligible for appointment.
- D. SSHE Legal Opinion #11-96: Veterans are not to be preferred merely because they are veterans. They must meet the requisite qualifications, and must demonstrate the ability to perform. Simply having the licensure or credentials does not serve to qualify an applicant for a job. Unless an

applicant successfully reaches the finalist pool of a search process, he or she has not met the employer's requisite qualifications. To make the finalist pool approach work, more than one name needs to be submitted into the finalist pool. At least 3 are recommended.

E. SSHE Legal Opinion #1-99: Being a veteran does not in and of itself qualify a veteran applicant for being placed in the finalist pool. If the university has included the requirement of successful performance in an interview or demonstration in the position advertisement (or the job description per #11-96), the finalist pool should consist of only those individuals who have satisfactorily completed those requirements.

**Note:** The Veteran's Preference Act of 1975 affords similar rights to spouses of disabled or deceased veterans. As a point of clarification, the preference is intended to relate to spouses of veterans with service-connected disabilities. If a disabled veteran wishes to transfer the preference to his or her spouse, the waiver and transfer must be done in writing and signed by the veteran. Spouses of deceased veterans must present the spouse's DD-214, marriage and death certificate to be eligible for the preference. The death need not be service-connected, however. Divorced spouses have no eligibility.