WEST VIRGINIA CODE CHAPTER 6 ARTICLE 13

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§6-13-1. Definitions.

(a) “Active duty” or “active-duty service” means full-time duty in the armed forces of the United States, as defined in 10 USC §101(d) or 32 USC §502, §503, or §904.

(b) “Active duty for training” means full-time duty in the armed forces of the United States for a period of more than 90 consecutive days for training purposes performed by members of the National Guard or Military Reserves.

(c) “Armed forces” shall have the same definition as provided in 5 U.S.C. §2101(2) and means the Army, Navy, Air Force, Marine Corps, Coast Guard, and Space Force.

(d) “Certification” means any written document from the armed forces that certifies that a service member is expected to be discharged or released from active-duty service in the armed forces under honorable conditions not later than 120 days after the date the certification is submitted for consideration in the hiring process, at the time and in the manner prescribed by the applicable job opportunity announcement. Prior to appointment, the service member's character of service and qualifying discharge release must be verified through a DD Form 214 or equivalent documentation.

(e) “Disabled veteran” means a person who has been discharged or released from active-duty service under honorable conditions performed at any time, or who has a certification as defined in subsection (c) of this section, and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension because of a statute administered by the Department of Veterans Affairs or by a military department.

(f) “Rule of 3” refers to the rule under which managers are required to select new employees from among the top three available candidates rated and referred to them by an examining office.

(g) “Veteran” means a person who has been discharged or released from active-duty service in the armed forces under honorable conditions, or who has completed active duty for training for a period of more than 90 consecutive days as a member of the National Guard or Military Reserves.

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§6-13-2. Preference rating categories for veterans; benefits to be granted on written examinations for positions in state departments filed under nonpartisan merit system; other benefits.

(a) For positions in any agency as defined in §5F-1-4 of this code or any other political subdivision of this state in which positions are filled under civil service or any job classification system, a 5-Point Preference category or a 10-Point Compensable Disability Preference category shall be applied to qualifying veterans. A veteran who qualifies for either the 5-Point Preference category or the 10-Point Compensable Disability Preference category shall have the corresponding preference points added to his or her regular numerical score on employment examinations or category ratings: *Provided, however*; That the preference points may only be added to a passing score.

(b) If a veteran who qualifies for either the 5-Point Preference category or the 10-Point Compensable Disability Preference category also qualifies for another preference category, the veteran shall only be qualified to receive the benefits that correspond with the highest numerical preference category.

(c) To receive preference under this article, the veteran's separation from active duty must have been under honorable conditions.

(d) The benefits conferred pursuant to this article shall be made for the benefit and preference in appointment of all veterans who have heretofore, or who shall hereafter, take examinations, but shall not operate to the detriment of any person previously appointed to a position in any agency defined in §5F-1-4 of this code or any other political subdivision of this state.

(e) 5-Point Preference category applicability. — A 5-Point Preference shall be used for veterans who participated in active duty service as set forth in §6-13-1(a) and §6-13-1(b) of this code.

(f) 5-Point Preference benefits. — Under the 5-Point Preference, a qualifying veteran:

(1) Shall receive an additional five points that shall be added to the regular numerical score or rating of an employment examination: *Provided, however*; These preference points may only be added to a passing score or rating prior;

(2) Shall receive preference points as other eligibles do when the Rule of 3 is applied;

(3) Shall be entitled to be listed ahead of non-preference eligibles with the same score on an examination, or listed ahead of non-preference eligibles in the same quality category when agencies are using category rating;

(4) Shall be entitled to receive the same pass-over rights as other preference eligibles; and

(5) Shall be entitled to credit experience in the armed forces to meet the qualification

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requirements for employment.

(g) 10-Point Compensable Disability Preference category applicability. — A 10-Point Compensable Disability Preference shall be used for veterans who:

(1) Served on active duty for any period of time and meet the definitional requirement of "disabled veteran" as set forth in §6-13-1(e) of this code; or

(2) Received a Purple Heart medal.

(h) 10-Point Compensable Disability Preference benefits. — Under the 10-Point Compensable Disability Preference, a qualifying veteran:

(1) Shall receive an additional 10 points that shall be added to the regular numerical score or rating of an employment examination: *Provided, however*; These preference points may only be added to a passing score or rating;

(2) Shall receive preference points as other eligibles do when the Rule of 3 is applied;

(3) Shall be entitled to be listed ahead of non-preference eligibles with the same score on an examination, or listed ahead of non-preference eligibles in the same quality category when agencies are using category rating;

(4) Shall be entitled to receive the same pass-over rights as other preference eligibles; and

(5) Shall be entitled to credit experience in the armed forces to meet the qualification requirements for employment.

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