

- 1.-7. (No change.)
  8. Deductible fees not covered by medical insurances;
  9. Payment for pharmaceuticals to reimburse Medicaid as required;
  10. Telephone;
  11. Television;
  12. Outside personal laundry services;
  13. Outside physician services;
  14. Any non-payment of debts incurred by the resident, including healthcare costs; and
  15. Personal purchases.
- (d)-(f) (No change.)

#### SUBCHAPTER 6. RESIDENT TRANSFER, DISCHARGE, OR DEATH

##### 5A:5-6.1 Transfer, discharge, or death of a resident

(a) Any resident may be removed from a veterans' memorial home on being restored to an ability to promote his or her own support and welfare in the community, for immorality, for fraud or willful misrepresentation, or refusal to abide by the rules, regulations, and discipline of the veterans' memorial home, as well as:

- 1.-3. (No change.)
  4. Violation of Federal, State, or local laws, rules, or regulations.
- (b)-(c) (No change.)
- (d) Pre-paid care and maintenance fees shall be rebated to the resident/representative based upon the pro-rating of days and reconciliation of insurance claims after discharge or death.
- (e) A resident who has been discharged or who voluntarily discharges him- or herself and wishes to return to a veterans' memorial home must submit a complete application for admission packet to be considered for readmission. The process will be in accordance with N.J.A.C. 5A:5-3 and 4.
- (f) Upon the death of a resident, the veterans' memorial home will follow the procedures as given in the Division of Veterans' Healthcare Policy and Procedure manual, Business Office section, subsections 44-02-010, 44-02-011, and 44-02-013.

(a)

### OFFICE OF THE ADJUTANT GENERAL DIVISION OF VETERANS' PROGRAMS Veterans' and Disabled Veterans' Preference and Designation of Veterans' Status for Pension Purposes

#### Readoption with Amendments: N.J.A.C. 5A:9

Proposed: October 7, 2013, at 45 N.J.R. 2163(a).

Adopted: December 23, 2013, by Brigadier General Michael L. Cunniff, the Adjutant General, Commissioner, Department of Military and Veterans' Affairs.

Filed: December 23, 2013, as R.2014 d.024, **without change**.

Authority: N.J.S.A. 11A:5-1.1, 18A:66-2.2, and 43:15A-6.1; and P.L. 2000, c. 127, P.L. 2000, c. 146, P.L. 2001, c. 127, P.L. 2003, c. 197, and P.L. 2007, c. 115.

Effective Dates: December 23, 2013, Readoption;  
January 21, 2014, Amendments.

Expiration Date: December 23, 2020.

#### Summary of Public Comment and Agency Response:

Public comments were submitted by Bruce Linton and are summarized below.

COMMENT: Bruce Linton submitted a comment, stated that the notice of proposal Summary should be amended to state that veterans in the Public Employee Retirement System (PERS) may retire at age 60 with 20 or more years at 54.5 percent of their salary in accordance with P.L. 2004, c. 177.

RESPONSE: The Department concurs with the commenter's statement regarding the effects of P.L. 2004, c. 177, and the incorrect nature of the

statement in the notice of proposal Summary. However, this does not change any of the rules readopted with amendments to N.J.A.C. 5A:9, and as the statements of a notice of proposal are final upon publication, no change is necessary at this time. The Department of Military and Veterans' Affairs further notes that the Department does not set required years of service, minimum age, or pension benefits, which are set and determined by the Division of Pensions and Benefits in the Department of the Treasury; the Department only verifies whether the individual is a veteran.

#### Federal Standards Statement

A Federal standards analysis is not required. There are no Federal requirements or standards that affect the rules readopted with amendments.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 5A:9.

**Full text** of the adopted amendments follows:

#### SUBCHAPTER 1. VETERANS' AND DISABLED VETERANS' PREFERENCE AND DESIGNATION OF VETERANS' STATUS FOR PENSION PURPOSES

##### 5A:9-1.1 Purpose and scope

(a) This subchapter sets forth the filing requirements by individual applicants to the Department of Military and Veterans' Affairs for veterans' and disabled veterans' preference and designation of veterans' status for pension purposes, to be used by the New Jersey Civil Service Commission and/or the Division of Pensions and Benefits.

(b) (No change.)

##### 5A:9-1.2 Veterans' preference and veterans' status for pension purposes

(a) A person is entitled to veterans' preference or veterans' status for pension purposes, if he or she has been discharged or released from active United States military or naval service under conditions other than dishonorable, and has served in the active United States military or naval service during:

1. World War I, between April 6, 1917 and November 11, 1918, who shall have served at least 90 consecutive days;

2. World War II, on or after September 16, 1940, who shall have served at least 90 days beginning on or before December 31, 1946 in such active service, exclusive of any period of assignment for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion; or as a cadet or midshipman at one of the service academies;

3.-5. (No change.)

6. Grenada peacekeeping mission, commencing on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days terminating on or before November 21, 1983, in such active service;

7. Panama peacekeeping mission, commencing on or after December 20, 1989, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days terminating on or before January 31, 1990, in such active service;

8.-9. (No change.)

10. Operation "Enduring Freedom" commencing on or after September 11, 2001, who served for a period, continuous or in the aggregate, of at least 14 days in areas designated by the U.S. Department of Defense, and ending on or before the date of termination of that mission as proclaimed by the President of the United States or Congress, whichever date of termination is later, and was in receipt of the Global War on Terrorism Expeditionary Medal, Afghanistan Campaign Medal, or can provide supportive documentation reflecting service in the area of operation;

11. Operation "Iraqi Freedom/New Dawn" commencing on or after March 19, 2003, and terminating on December 15, 2012, who served for

a period, continuous or in the aggregate, of at least 14 days in areas designated by the U.S. Department of Defense, ending on or before the date of termination of that mission as proclaimed by the President of the United States or Congress, whichever date of termination is later, and was in receipt of the Global War on Terrorism Expeditionary Medal, Iraqi Campaign Medal, or can provide supportive documentation reflecting service in the area of operation;

Recodify existing 1.-3. as 12.-14. (No change in text.)

15. Served at least 90 days in any army or navy of the United States allies in World War I between April 6, 1917 and November 11, 1918, or World War II between September 16, 1940 and December 31, 1946, provided he or she voluntarily enlisted in such service, was a United States citizen at the time of enlistment, did not renounce or lose United States citizenship, and was honorably discharged.

(b) Any person receiving an actual service-connected injury or disability shall be classed as a veteran:

1. Whether or not that person has completed the required length of service in (a) above;

2. In the case of (a)10 and 11 above, regardless of receipt of the Global War on Terrorism Expeditionary Medal; or

3. In the case of (a)14 above, regardless of receipt of the Armed Forces Expeditionary Medal.

#### 5A:9-1.3 Disabled veterans' preference

(a) To be eligible for disabled veterans' preference under New Jersey law, one must have served on active duty during the recognized dates listed in N.J.A.C. 5A:9-1.2(a) and meet the veteran's preference guidelines, or incurred a service-connected injury irrespective of length of service pursuant to N.J.A.C. 5A:9-1.2(b). A person is entitled to disabled veterans' preference if he or she:

1.-4. (No change.)

#### 5A:9-1.4 Filing for veterans' or disabled veterans' preference for New Jersey Civil Service Commission purposes and designation of veterans' status for pension purposes

(a) To establish a veterans' preference under N.J.S.A. 11A:5-1 et seq., an individual shall submit a completed "Civil Service Veterans Preference Claim Form" (NJDMAVA Form 05A-1), provided at chapter Appendix A, incorporated herein by reference, and a copy of Veterans Separation Papers (DD Form 214), indicating the type of military discharge, to the New Jersey Department of Military and Veterans' Affairs, ATTN: DVS-VBB-Preference, P.O. Box 340, Trenton, New Jersey 08625-0340 or fax: 609-530-6970.

(b) To establish a disabled veterans' preference under N.J.S.A. 11A:5-1, an individual shall submit a completed "Civil Service Veterans Preference Claim Form" (NJDMAVA Form 05A-1), provided at chapter Appendix A, along with a copy of Veterans Separation Papers (DD Form 214), indicating the type of military discharge, and proof of service-connected disability to the New Jersey Department of Military and Veterans' Affairs, ATTN: DVS-VBB-Preference, P.O. Box 340, Trenton, New Jersey 08625-0340 or fax: 609-530-6970.

(c) To establish eligibility to be considered a veteran in the Teachers' Pension and Annuity Fund under N.J.S.A. 18A:66-2 for the purpose of eligibility for a veterans' retirement allowance, an individual shall submit a completed "Application For Veteran Designation For Pension," (NJDMAVA Form 05A-2), provided at chapter Appendix B, incorporated herein by reference, to the New Jersey Department of Military and Veterans' Affairs, ATTN: DVS-VBB-Pension, P.O. Box 340, Trenton, New Jersey 08625-0340 or fax: 609-530-6970.

(d) To establish eligibility to be considered a veteran in the Public Employees' Retirement System under section 6 of P.L. 1954, c. 84 (N.J.S.A. 43:15A-6) for the purpose of eligibility for a veterans' retirement allowance, an individual shall submit a completed "Application For Veteran Designation For Pension," (NJDMAVA Form 05A-2), provided at chapter Appendix B, to the New Jersey Department of Military and Veterans' Affairs, ATTN: DVS-VBB-Pension, P.O. Box 340, Trenton, New Jersey 08625-0340 or fax: 609-530-6970.

(e) To establish eligibility to be considered a veteran in the Police and Firemen's Retirement System under section 1 of P.L. 1983, c. 391 (N.J.S.A. 43:16A-11.7) for the purpose of purchasing military service credit, an individual shall submit a completed "Application For Veteran Designation For Pension" (NJDMAVA Form 05A-2), provided at chapter Appendix B, to the New Jersey Department of Military and Veterans' Affairs, ATTN: DVS-VBB-Pension, P.O. Box 340, Trenton, New Jersey 08625-0340 or fax: 609-530-6970.

(f) When an individual does not possess a DD Form 214 and Separation Papers and the Veterans Administration or National Personnel Records Center copy has been destroyed, the applicant may submit a letter from the appropriate agency attesting to the destruction of such records and a notarized statement by the applicant attesting to the dates of active service, branch of service, rank, and type of discharge.

#### 5A:9-1.5 Notification of public entity of the Adjutant General's granting of veterans' or disabled veterans' preference

The Adjutant General shall cause the appropriate coding for approved veterans' or disabled veterans' preference to be entered into the New Jersey Civil Service Commission database, thereby constituting notification of the public entity.

#### 5A:9-1.7 Appeal rights of individuals applying for veterans' or disabled veterans' preference or veterans' status for pension purposes

(a)-(b) (No change.)

(c) The Adjutant General shall appoint an appeals board to consider an appeal submitted by any person disputing the determination of veterans' preference for civil service veterans' preference or veterans' status for pension purposes. The appeals board shall review documentation submitted, including the initial application and all documents submitted with the appeal request and make an appropriate recommendation to the Adjutant General. The Adjutant General's determination is binding upon the Civil Service Commission and the Division of Pensions and Benefits.

APPENDIX A

**NEW JERSEY DEPARTMENT OF MILITARY & VETERANS AFFAIRS  
CIVIL SERVICE VETERANS PREFERENCE CLAIM FORM  
INSTRUCTIONS**

• Please print or type all answers • Complete the first section and any other section(s) that apply to you • Sign your name at the bottom • Please mail or fax this form and a copy of your Veterans Separation Papers (DD Form 214 indicating the type of military discharge) to NJ Dept of Military & Veterans Affairs, ATTN: DVS-VBB, P.O. Box 340, Trenton, NJ 08625-0340, FAX: 609-530-6970 • If you do not have DD Form 214, a copy can be obtained from the National Personnel Records Center, 1 Archives Drive, St. Louis, MO 63138. If your records have been destroyed, a letter from the National Personnel Records Center attesting to the destruction of your records and a notarized statement indicating the dates of active service, branch, rank, and type of discharge must be submitted.

1. Your Name (Last, first, middle initial – Please Print or Type)	2. Your Social Security Number	4. Veteran's Name (If you are not the Veteran)	
3. Your address Street .....		5. Veteran's Social Security Number (If you are not the Veteran)	
City ..... State ..... Zip Code .....		6. Date Starting Active Duty	7. Date Ending Active Duty
8. E-mail address	9. Work Telephone	10. Home Telephone	

<b>DISABLED VETERAN CLAIMANTS</b> – If the Veteran is eligible for or receiving 10% or more disability compensation or pension for a service connected disability incurred during one of the covered periods of service. <b>CURRENT PROOF OF DISABILITY IS REQUIRED.</b>	11. Give percent disability receiving [or entitled to receive] _____ %
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**SPOUSE OF A DISABLED VETERAN** - The spouse of Veteran who is eligible for or receiving 10% or more disability compensation or pension for a service connected disability incurred during one of the covered periods is entitled to the same preference as the Veteran provided a marriage certificate is submitted, the Veteran is not in the employment of the State, or of any County, Municipality, or School District covered by the NJ Civil Service Commission and further provided that the Veteran waives all preference as long as the spouse is employed by any of the aforementioned jurisdictions.

12. Are you presently married to the Veteran named in Item 4 above? <input type="checkbox"/> YES <input type="checkbox"/> NO	13. Will the Veteran waive the right to use of the D.V. Status in your favor? <input type="checkbox"/> YES <input type="checkbox"/> NO (If Yes, Veteran must sign here)
14. Is the Veteran now employed by the State or any other Jurisdiction covered by the Department of Personnel? <input type="checkbox"/> YES <input type="checkbox"/> NO	⇒ Veteran's Signature .....

**SURVIVING SPOUSE OF A DISABLED VETERAN**  
Until s/he remarries, is entitled to the same preference as a Disabled Veteran. **Copy of Death Certificate or Report of Casualty required.**

15. Date of Death	16. Has a parent of the Veteran named in Item 4 above used the parent's preference with the New Jersey Civil Service Commission? <input type="checkbox"/> YES <input type="checkbox"/> NO
17. Were you married to the Veteran named in Item 4 above at the time of the Veteran's death? <input type="checkbox"/> YES <input type="checkbox"/> NO	18. Have you remarried since the death of this Veteran? YES <input type="checkbox"/> NO <input type="checkbox"/>

**SURVIVING SPOUSE OF A VETERAN WHO DIED IN THE SERVICE** – is entitled, until the surviving spouse remarries, to the same preference to which the Veteran, if living, would be entitled. If both a parent and spouse survive, the use of such preference by either shall suspend the right of the other. **Copy of Death Certificate or Report of Casualty required.**

19. Were you married to the Veteran named in Item 4 above at the time of the Veteran's death? <input type="checkbox"/> YES <input type="checkbox"/> NO	20. Date of Death
21. Have you remarried since the death of this Veteran? <input type="checkbox"/> YES <input type="checkbox"/> NO	

**GOLD STAR PARENT** - The parent of a Veteran who died while in service is entitled to Disabled Veteran's Preference. If both a parent and spouse survive, the use of such preference by either shall suspend the right of the other. **Copy of Death Certificate or Report of Casualty required.**

22. Date of Death	24. Name and Address of surviving spouse	25. Has surviving spouse ever used the spouse's Veterans Preference in securing public Employment in New Jersey? <input type="checkbox"/> YES <input type="checkbox"/> NO
23. Was deceased Veteran married? <input type="checkbox"/> YES <input type="checkbox"/> NO (If Yes, complete items 27 and 28)		

**CERTIFICATION:** I certify that the statements made by me to the foregoing questions are true to the best of my knowledge and belief. If any of the statements in this application are false, I am aware that I am subject to criminal proceedings.

YOUR SIGNATURE ..... DATE ..... [TELEPHONE] .....

NJDMAVA FORM 05A-1, 1 October 2013

**CIVIL SERVICE VETERAN'S PREFERENCE CLAIM FORM**

To be eligible for Veteran's preference/status under New Jersey Law, one must have served Under Other Than Dishonorable Conditions on active duty during one of the following periods, theaters of operation, or on board any ship actively engaged in patrolling the territorial waters of that nation for a period of at least 14 days beginning on or before the date of termination of that mission or operation. Proper documentation is required (WD Form 53-55, DD Form 214 - Honorable Discharge Certificate, and/or VA Disability Award Letter).

1. **World War II:** 90 days active duty on or after September 16, 1940 and must have begun on or before December 31, 1946.
2. **Korean Conflict:** 90 days active duty on or after June 23, 1950 and must have begun on or before January 31, 1955.
3. **Vietnam Conflict:** 90 days active duty on or after December 31, 1960 and must have begun on or before May 7, 1975.
4. **Lebanon Crisis:** 14 days on or after July 1, 1958, commencing on or before November 1, 1958.
5. **Lebanon:** 14 days on or after September 26, 1982 and must have begun on or before December 1, 1987.
6. **Grenada:** 14 days on or after October 23, 1983 and must have begun on or before November 21, 1983.
7. **Panama:** 14 days on or after December 20, 1989 and must have begun on or before January 31, 1990.
8. **Operation Desert Shield/Desert Storm:** 14 days on or after August 2, 1990 to February 28, 1991.
9. **Somalia:** 14 days on or after December 5, 1992 and must have begun on or before March 31, 1994.
10. **Bosnia and Herzegovina (Operation Joint Endeavor/Operation Joint Guard):** 14 days on or after November 20, 1995 and on or before June 20, 1998.
11. **Haiti (Operation Uphold Democracy):** 14 days on or after September 19, 1994 and on or before March 31, 1995.
12. **Operation Enduring Freedom:** 14 days on or after September 11, 2001.
13. **Operation Iraqi Freedom/New Dawn:** 14 days on or after March 19, 2003 and on or before December 15, 2012.
14. **Operations Southern and Northern Watch:** 14 days on or after August 27, 1992, and on or before on March 17, 2003.

To be eligible for Disabled Veteran's preference, one must be a "Veteran" as described above and must have incurred a disability for which the Veteran is receiving 10% or greater disability compensation from the US Department of Veterans Affairs. Spouses of Disabled Veterans, surviving spouses of Disabled Veterans or Veterans and parents of Veterans who died in service are eligible for preference, if the Veteran would have been eligible for Veteran's preference. Proper documentation is required (DD Form 214, Honorable Discharge Certificate, and VA Disability Award Letter).

**NOTE:** Individuals whose only active service was for training (basic training, advanced training, officer candidate school, weekend drills, and annual training) in connection with a Reserve or National Guard obligation are not eligible for Veteran's Preference/Status.

**NOTE:** Merchant Marine Personnel who served in World War II, and who present a DD Form 214 or similar documentation which establishes 90 days of active service during the period noted above, are entitled to Veteran's Preference.

**NOTE:** Dates listed above coincide with the dates that the Department of Defense have established for periods of war, combat and peacekeeping operations and are subject to change according to President of the United States and the Secretary of Defense.

**NOTE:** If both a parent and spouse survive of an individual who died in while in service, the use of Veteran's preference by either shall suspend the right of the other.

**NOTE:** If you have previously been denied for Veteran's status that was not originally listed as a New Jersey recognized theater of operation and is currently an approved war, combat or peacekeeping period, please reapply, as Veteran's status will not be retroactive.

NJDMAVA FORM 05A-1, 1 October 2013

APPENDIX B

NEW JERSEY DEPARTMENT OF MILITARY & VETERANS AFFAIRS  
APPLICATION FOR VETERAN DESIGNATION FOR PENSION

INSTRUCTIONS

\* Please print or type all answers. \* Sign your name at the bottom of the application. \* Please mail or fax this form and a copy of your Veteran's Separation Papers (DD Form 214 indicating the type of military discharge) to NJ Dept of Military & Veterans Affairs, ATTN: DVS-VBB, P.O. Box 340, Trenton, NJ 08625-0340, FAX: 609-530-6970 \* If you do not have DD Form 214, a copy may be obtained from the National Personnel Records Center, 1 Archives Drive, St. Louis, MO 63138. If your records have been destroyed, a letter from the National Personnel Records Center attesting to the destruction of your records and a notarized statement indicating the dates of active serve, branch, rank, and type of discharge, must be submitted.

1. Name ( <i>Last, first, middle initial - Please Print</i> )	2. Social Security Number
3. Address Street _____ City _____ State _____ Zip Code _____	4. Daytime Phone Number

4. Veteran Status: (Attach Copy of DD Form 214 indicating the type of military discharge)

YES  NO

5. Retirement System: (Check the block that applies to the retirement system that you are enrolled in)

Teachers' Pension and Annuity Fund (TPAF)

Public Employees' Retirement System (PERS)

Police and Firemen's Retirement System (PFRS)

REMARKS (Optional)

**CERTIFICATION:** I certify that the statements made by me to the foregoing questions are true to the best of my knowledge and belief. If any of the statements in this application are false, I am aware that I am subject to criminal proceedings.

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

NJDMAVA FORM 05A-2, 1 October 2013