

IX. VETERANS' RIGHTS

A. Definition of a Veteran

The term veteran is defined as a United States citizen or an alien lawfully admitted for permanent residence who served in the armed forces of the United States during a designated time of war and was honorably discharged or released under honorable circumstances. Also, for additional examination credit, a candidate must be a New York State resident at the time of application.

Armed forces are defined as the Army, Navy, Marine Corps, Air Force, Coast Guard and the National Guard when in service for the United States. Such service must be or have been on a full-time active duty basis, other than for training purposes.

Time of war is defined as follows:

All service in the United States armed forces during:

World War I	April 6, 1917 - November 11, 1918
World War II	December 7, 1941 - December 31, 1946
Korean Conflict	June 27, 1950 - January 31, 1955
Viet Nam Conflict	February 28, 1961 - May 7, 1975
Persian Gulf Conflict	August 2, 1990 - the date upon which such hostilities end

Service for which a veteran received the Armed Forces Expeditionary Medal, the Navy Expeditionary Medal, or the Marine Corps Expeditionary Medal for:

Hostilities in Lebanon June 1, 1983 - December 1, 1987
Hostilities in Grenada October 23, 1983 - November 21, 1983
Hostilities in Panama December 20, 1989 - January 31, 1990

Service in the commissioned corps of the United States Public Health Service during the following dates:

July 29, 1945 - December 31, 1946
June 27, 1950 - July 3, 1952

A disabled veteran is defined as someone who meets the above service criteria and is certified by the United States Veterans' Affairs as having a disability rated at 10 percent or more which was

incurred while serving in the United States armed forces during time of war. The disability must be in effect and the disabled veteran must be receiving payment for such disability at the time of application or retention.

B. Examination Credits

Certain veterans are entitled to receive additional credit in competitive civil service examinations. Article V, Section 6 of the State Constitution provides that to receive additional credit a veteran:

- must have served in a time of war;
 - must have received an honorable discharge or been released under honorable circumstances;
 - must be a resident of New York State at time of application for examination.
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- A candidate claiming veterans' credits may apply for such credit at any time between the date of application for examination and the establishment of the resulting eligible list. Required is a copy of the candidate's DD-214 (separation papers). A candidate cannot be granted veterans' credit after an eligible list has been established.
 - A veteran must first obtain a minimum passing score on the examination in order to be granted additional credit.
 - *Disabled veterans* are entitled to receive an additional ten points on an open-competitive examination or an additional five points on a promotion examination. In order to be eligible for credits as a disabled veteran, the candidate must be certified by the Department of Veterans' Affairs as being entitled to and currently receiving payment for a service connected disability rated at 10 percent or more, which was incurred during a time of war. A copy of said certification must be provided to Civil Service in order to receive credits as a disabled veteran.
 - *Non-disabled veterans* are entitled to five points on an open-competitive examination or two and one-half points on a promotion examination.
 - Veterans' credits may be used only once, with one exception (*see paragraph below*). When a veteran receives a permanent appointment (either original appointment or promotion) from

an eligible list using his or her veterans' credits, no additional veterans' credit may be awarded on any subsequent examination. This would apply to *any* appointment in the civil service of New York State or *any* of its civil divisions. A veteran is deemed to have used credit if such credit changes the veteran's position relative to other candidates on the eligible list from which his/her permanent appointment results. If the position of a veteran on an eligible list is not changed by the addition of veterans' credits, the credits are not deemed to have been used.

*An amendment to Article V, Section 6 of the State Constitution (effective January 1, 2014) creates an **exception** to the one-time-only use of veteran credits. It permits veterans who are certified as disabled after having already received credits as a non-disabled veteran for either an original appointment or a promotion to receive additional credits after the certification of their disability. After being certified disabled, such veteran would be entitled to an additional grant of credits equal to the difference between 10 credits and the number of credits received at the initial appointment or promotion (while non-disabled). This would bring the total additional points of credit such veterans can receive to 10 for either an appointment or a promotion.*

- A veteran may withdraw his/her veterans' credit at any time up to appointment. Such withdrawal may require revision of the eligible list to reflect the veteran's final examination rating after the credit has been deducted. A request to withdraw credits may not be reversed during the life of the affected eligible list. A veteran may apply for, be awarded and subsequently withdraw use of veterans' credits on an unlimited number of examinations until the credit is used in gaining a permanent appointment.
- A veteran who receives a permanent appointment from an eligible list using veterans' credit and subsequently either is terminated during or at the end of the probationary term or resigns during or at the end of the probationary period shall be deemed to have not used his/her veterans' credit.

C. Military Make-Up Examinations

Members of the organized militia or reserves who, because of active military duty other than for training purposes, are unable to file an application by the appropriate deadline, or who are able to

file but are unable to participate in the scheduled examination due to a military commitment, may be eligible for participation in examination. In order for a military make-up examination to be administered, the eligible list resulting from the original examination holding must still be in existence. A candidate eligible for a military make-up exam does not have to wait until discharge from active duty to take the test. Completing the examination at the earliest possible opportunity is advisable, since candidates who pass a military make-up examination can only have their scores added to the existing eligible list for the examination in which the individual was originally unable to participate.

NOTE: A military make-up examination is not limited to written tests. If an applicant was unable to appear for a medical, physical agility, performance, psychological or any other type of examination, then he/she would be entitled to a make-up examination.

Special rights fall into the following categories:

1. Filed application prior to last filing date – Unavailable to attend exam on scheduled date.

- Any member of the Armed Forces who, because of active military duty, other than for training purposes, is unable to participate on the scheduled examination date, but filed an application prior to the application deadline *and was determined to be qualified*, shall be given a special military make-up exam.

2. Missed the application deadline – Able to take exam on scheduled date.

- Any member of the Armed Forces who, because of active military duty, other than for training purposes, misses the application deadline for a scheduled examination and who returns from such duty prior to the scheduled examination date shall be granted a waiver of the application deadline requirement. The application will be reviewed in the normal manner. The candidate will be allowed to take the exam if the application is determined to meet the minimum qualifications as stated in the exam announcement.

3. Missed the application deadline and exam date, or did not file an application for the exam.

- **Veterans** may apply for any Albany County Civil Service exam that was administered during their active duty tour as long as the eligible list is still active.

In order to be eligible for a make-up examination or to participate in the scheduled examination after the application deadline has passed, candidates serving in eligible military duty must submit copies of the following information:

- An application for examination and filing fee;
- An Alternate Test Date application (if they are unable to participate in the originally scheduled examination date due to an eligible military commitment);
- A copy of military orders, a DD-214 or other official military documentation that substantiates his or her military service during the application filing period or on the date of the scheduled examination.

Veteran applicants are not entitled to veterans' or disabled veterans' credit on a make-up or comparable examination, unless they qualified for such credit as of the last filing date for the original examination.

*Written exam materials from the originally scheduled exam should not be retained for use in military make-up examinations. Requests for military make-up and comparable exams should be made through the MSD web application.

D. Veterans' Layoff Rights

Competitive Class Positions

Whenever competitive class positions are abolished resulting in the suspension, demotion or displacement of permanent employees, veterans will have additional time added to their retention dates as follows:

- Disabled veterans will have their retention date deemed to be 60 months earlier than their date of original permanent appointment to the classified service.
- Non-disabled veterans will have their retention date deemed to be 30 months earlier than their date of original permanent appointment to the classified service.
- The spouse of a veteran with a one-hundred percent service connected disability will have his or her retention date deemed to be 60 months earlier than the spouse's date of original appointment to the classified service. The spouse must be a head of household and reside with the veteran-spouse at the date of layoff.

A veteran **automatically** has his/her retention date adjusted; it does not need to be applied for, and does not depend on whether a veteran received, or even applied for, veterans' credits at time

of examination. However, Civil Service should verify veterans' and disabled veterans' status for all employees potentially affected by layoff.

Non-Competitive or Labor Class Positions

Whenever a non-competitive or labor class position occupied by a veteran is abolished, the veteran shall have a right to transfer to a similar vacant position and shall receive the same compensation in the new position. It is the responsibility of all persons with the power to appoint to make such transfers effective. When a vacancy exists in a similar position to which the veteran could be transferred, it is the responsibility of the appointing authority and Civil Service to effect an appropriate transfer happen before any other appointment can be made to the position.

For further information regarding the rights of veterans, such as special military lists and age deductions for exams with maximum age requirements, refer to the manual available on MSD titled, "Veterans' Rights Manual for Municipalities."