



ADMINISTRATIVE RULES OF MONTANA

2.21.1424 CLAIMING PREFERENCE - DOCUMENTATION AND VERIFICATION

- (1) As provided in 39-30-206, MCA, "a public employer shall, by posting or on the application form, give notice of the preferences that [the Persons with Disabilities Employment Preference Act] provides in public employment." The notice shall appear at the place where applications are received.
- (2) As provided in 39-30-206, MCA, "a job applicant who believes he has an employment preference shall claim the preference in writing before the time for filing applications for the position involved has passed." An employer may provide a standard form for claiming employment preference. However, failure to complete such a form does not negate an applicant's claim for preference, as long as a reasonable and timely claim is made as required by this rule. As provided in 39-30-206, MCA, "failure to make a timely employment preference claim for a position is a complete defense to an action in regard to that position under 39-30-207, MCA."
- (3) At the place where applications are received, the hiring authority or other agency receiving applications shall inform applicants of requirements for documentation of eligibility for preference which the applicant may be required to provide to the hiring authority.
- (4) The person claiming eligibility for employment preference is responsible for providing all information necessary to document the claim.
- (5) The hiring authority must obtain documentation of eligibility for employment preference at least from the applicant who is selected for the vacancy.
- (6) The hiring authority shall determine when in the selection process submission of documentation of eligibility for the preference shall be provided by the applicant. This may be at the time an offer of employment is made or at an earlier time specified by the hiring authority.
- (7) Where appropriate, documentation will include the following or an acceptable substitute:
 - (a) from a person with a disability, a document from the department of public health and human services certifying that the applicant is eligible for preference as a person with a disability;
 - (b) from an eligible spouse of a person with a disability, a document from the department of public health and human services certifying the person with a disability has a total disability, is unable to use the preference because of the disability, and is married to the eligible spouse in accordance with Montana law.
 - (c) a statement signed by the applicant attesting to U.S. citizenship, and Montana or local residency. Where the hiring authority has reason to question the validity of such statement, further evidence may be requested. For U.S. citizenship such evidence may include, but is

not limited to, a birth certificate, voter registration card, U.S. passport, or naturalization papers. For Montana residency, evidence may include, but is not limited to, payment of state of Montana income tax, Montana driver's license, vehicle registration, or hunting and fishing license.

- (8) All documentation submitted to a public employer, an entity designated to receive applications for a public employer, or to the department of public health and human services in support of a claim of employment preference shall be considered confidential.
- (9) A public employer may release general information relating to a successful applicant's eligibility for preference upon request. The information provided should not be specific to the nature of the disability or other personally identifying information.
- (10) Applicants shall be notified that intentional misrepresentation of the claim for preference is cause for immediate discharge.

Authorizing statute(s): 39-30-106, MCA

Implementing statute(s): 39-30-101 et seq. , MCA

History: NEW, 1984 MAR p. 425, Eff. 3/16/84; AMD, 1990 MAR p. 485, Eff. 3/16/90; AMD, 1997 MAR p. 2277, Eff. 12/16/97; AMD, 2000 MAR p. 448, Eff. 2/11/00.