

## CHAPTER 35C

### VETERANS PREFERENCE

Referred to in [§35.1](#), [372.8](#)

This chapter not enacted as a part of this title; transferred from chapter 70 in Code 1993

35C.1	Appointments and employment — applications.	35C.6	Removal — certiorari — judicial review.
35C.2	Physical disability.	35C.7	Burden of proof.
35C.3	Duty to investigate and appoint.	35C.8	Exceptions.
35C.4	Mandamus — judicial review.	35C.9	Veterans preference — information clearinghouse.
35C.5	Appeals.		
35C.5A	Arbitration.		

#### **35C.1 Appointments and employment — applications.**

1. In every public department and upon all public works in the state, and of the counties, cities, and school corporations of the state, veterans who are citizens and residents of the United States are entitled to preference in appointment and employment over other applicants of no greater qualifications. The preference in appointment and employment for employees of cities under a municipal civil service is the same as provided in [section 400.10](#). For purposes of [this section](#), “veteran” means as defined in [section 35.1](#) except that the requirement that the person be a resident of this state shall not apply.

2. *a.* In all jobs of the state and its political subdivisions, an application form shall be completed. The application form shall contain an inquiry into the applicant’s military service during the wars or armed conflicts as specified in [subsection 1](#).

*b.* The department of administrative services shall inform the agency to which the person is seeking employment of the person’s military service as specified in [subsection 1](#).

3. In all jobs of political subdivisions of the state which are to be filled by competitive examination or by appointment, public notice of the application deadline to fill a job shall be posted at least ten days before the deadline in the same manner as notices of meetings are posted under [section 21.4](#).

4. For jobs in political subdivisions of the state that are filled through a point-rated qualifying examination, the preference afforded to veterans shall be equivalent to that provided for municipal civil service systems in [section 400.10](#).

[S13, §1056-a15; C24, 27, 31, 35, 39, §1159; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.1]

[85 Acts, ch 50, §1](#); [92 Acts, ch 1238, §17](#)

C93, §35C.1

[94 Acts, ch 1189, §16](#); [2000 Acts, ch 1154, §6](#); [2003 Acts, ch 145, §286](#); [2008 Acts, ch 1032, §201](#); [2009 Acts, ch 150, §1](#); [2009 Acts, ch 179, §108](#)

Referred to in [§35C.2](#), [35C.5](#)

#### **35C.2 Physical disability.**

The persons thus preferred shall not be disqualified from holding any position mentioned in [section 35C.1](#) on account of age or by reason of any physical disability, provided such age or disability does not render such person incompetent to perform properly the duties of the position applied for.

[S13, §1056-a15; C24, 27, 31, 35, 39, §1160; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.2]

C93, §35C.2

[2017 Acts, ch 29, §26](#)

#### **35C.3 Duty to investigate and appoint.**

When any preferred person applies for appointment or employment under [this chapter](#), the officer, board, or person whose duty it is or may be to appoint or employ a person to fill the position or place shall, before appointing or employing a person to fill the position or place,

make an investigation as to the qualifications of the applicant for the place or position, and if the applicant is of good moral character and can perform the duties of the position applied for, the officer, board, or person shall appoint the applicant to the position, place, or employment. The appointing officer, board, or person shall set forth in writing and file for public inspection the specific grounds upon which it appointed or refused to appoint the person. At the time of application or at an interview for the position, an applicant may request notification of refusal only or notification of refusal and the specific grounds for refusal. The notification shall be sent within ten days after the successful applicant is selected and shall include information on the right of an unsuccessful applicant to maintain an action for mandamus under [section 35C.4](#), or file an appeal and the time to file an appeal under [section 35C.5](#).

[S13, §1056-a15; C24, 27, 31, 35, 39, §1161; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.3]

C93, §35C.3

[99 Acts, ch 180, §11](#); [2000 Acts, ch 1106, §1](#); [2020 Acts, ch 1050, §1](#)

Section amended

### **35C.4 Mandamus — judicial review.**

A refusal to allow said preference, or a reduction of the salary for said position with intent to bring about the resignation or discharge of the incumbent, shall entitle the applicant or incumbent, as the case may be, to maintain an action of mandamus to right the wrong. At their election such parties may, in the alternative, maintain an action for judicial review in accordance with the terms of the Iowa administrative procedure Act, [chapter 17A](#), if that is otherwise applicable to their case. An action of mandamus shall be filed by an applicant or incumbent within three hundred days after a refusal to allow said preference, or a reduction of the salary for said position with intent to bring about the resignation or discharge of the incumbent.

[S13, §1056-a15, -a16; C24, 27, 31, 35, 39, §1162; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.4]

C93, §35C.4

[2003 Acts, ch 44, §114](#); [2020 Acts, ch 1050, §2](#)

Referred to in [§35C.3](#), [35C.5](#), [35C.5A](#)

Section amended

### **35C.5 Appeals.**

1. In addition to the remedy provided in [section 35C.4](#), an appeal may be taken by any person belonging to any of the classes of persons to whom a preference is granted under [this chapter](#), from any refusal to allow the preference, as provided in [this chapter](#), to the district court of the county in which the refusal occurs.

2. The appeal shall be made by serving upon the appointing board, within twenty days after the date of the refusal of the appointing officer, board, or persons to allow the preference, a written notice of appeal stating the grounds of the appeal and a demand in writing for a certified transcript of the record and all papers on file in the office affecting or relating to the appointment. Upon receipt of the notice and demand, the appointing officer, board, or person shall, within ten days, make, certify, and deliver to the appellant the transcript. The appellant shall, within five days thereafter, file the transcript and a copy of the notice of appeal with the clerk of court.

3. The notice of appeal shall stand as the appellant's complaint and the cause shall be accorded such preference in its assignment for trial as to assure its prompt disposition. The court shall receive and consider any pertinent evidence, whether oral or documentary, concerning the appointment from which the appeal is taken. If the court finds that the applicant is qualified as defined in [section 35C.1](#), to hold the position for which the applicant has applied, the court shall, by its mandate, specifically direct the appointing officer, board, or persons as to their further action in the matter.

4. An appeal may be taken from the judgment of the district court on the same terms as an appeal is taken in civil actions. Parties entitled to appeal under [this section](#) may elect, in

the alternative, to maintain an action for judicial review in accordance with the terms of the Iowa administrative procedure Act, [chapter 17A](#), if that is otherwise applicable to the case.

[C35, §1162-g1; C39, §1162.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.5]  
C93, §35C.5

[2003 Acts, ch 44, §114](#); [2018 Acts, ch 1026, §17](#)

Referred to in [§35C.3, 35C.5A](#)  
Appeals, [R.App.P. 6.101, 6.102, 6.701](#)

### **35C.5A Arbitration.**

In addition to the remedies provided in [sections 35C.4](#) and [35C.5](#), a person belonging to a class of persons qualifying for a preference may submit any refusal to allow a preference, or any reduction of the person's salary as described in [section 35C.4](#), to arbitration within sixty days after written notification of the refusal or reduction. Within ten days after any submission, an arbitrator shall be selected by a committee that includes one member chosen by the person refused preference, one member chosen by the appointing officer, board, or person, and one member who shall be a disinterested party selected by the other two members of the committee. A list of qualified arbitrators may be obtained from the American arbitration association or other recognized arbitration organization or association. The decision of the arbitrator shall be final and binding on the parties.

[99 Acts, ch 180, §12](#)

### **35C.6 Removal — certiorari — judicial review.**

No person holding a public position by appointment or employment, and belonging to any of the classes of persons to whom a preference is granted under [this chapter](#), shall be removed from such position or employment except for incompetency or misconduct shown after a hearing, upon due notice, upon stated charges, and with the right of such employee or appointee to a review by a writ of certiorari or at such person's election, to judicial review in accordance with the terms of the Iowa administrative procedure Act, [chapter 17A](#), if that is otherwise applicable to their case. Upon removal from such position or employment, the person shall be provided written notification of the right of such employee or appointee to a review by a writ of certiorari or judicial review. A review by a writ of certiorari shall be filed within three hundred days of the removal of the employee or appointee.

[S13, §1056-a16; C24, 27, 31, 35, 39, §1163; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.6]

C93, §35C.6

[2003 Acts, ch 44, §114](#); [2017 Acts, ch 29, §27](#); [2020 Acts, ch 1050, §3](#)

Section amended

### **35C.7 Burden of proof.**

The burden of proving incompetency or misconduct shall rest upon the party alleging the same.

[S13, §1056-a16; C24, 27, 31, 35, 39, §1164; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.7]

C93, §35C.7

### **35C.8 Exceptions.**

Nothing in [this chapter](#) shall be construed to apply to the position of private secretary or deputy of any official or department, or to any person holding a strictly confidential relation to the appointing officer.

[S13, §1056-a16; C24, 27, 31, 35, 39, §1165; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §70.8]

C93, §35C.8

### **35C.9 Veterans preference — information clearinghouse.**

1. The department of workforce development, in coordination with the department of administrative services, shall establish a clearinghouse for the purpose of providing information to the state, political subdivisions of the state, and veterans who are citizens

and residents of the United States, concerning the rights and duties relating to providing veterans preference as required by [this chapter](#).

2. The information provided, which shall include a written statement in plain language concerning the rights and duties of [this chapter](#), shall be developed by the department of workforce development in consultation with the office of the attorney general and the department of administrative services. The information provided shall also include information concerning the enforcement of the requirements of [this chapter](#).

3. The internet site for the department of workforce development, the department of administrative services, the office of the attorney general, and the department of veterans affairs shall include a link to the information provided pursuant to [this section](#).

[2016 Acts, ch 1090, §1](#)