

**CHAPTER 5. AGE PREFERENCE**

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**Authority**

The provisions of this Chapter 5 issued under the act of June 20, 1978 (P. L. 477, No. 70) (71 P. S. §§ 581-1—581-12), unless otherwise noted.

**Source**

The provisions of this Chapter 5 adopted April 29, 1983, effective April 30, 1983, 13 Pa.B. 1434, unless otherwise noted.

**§ 5.1. Purpose and authority.**

(a) This chapter sets forth procedures to be followed by the Department and area agencies on aging regarding the preference to be afforded persons 60 years of age or older in recruitment, selection and training for positions in the Department and area agencies on aging.

(b) This chapter is adopted under the act and section 14 of the act of June 20, 1978 (P. L. 477, No. 70) and in conformity with the Older Americans Act of 1965 (42 U.S.C.A. §§ 3001—3057g) and 45 CFR Part 1321 (relating to grants for state and community programs on aging) in order to assure the continued eligibility of the Commonwealth and its political subdivisions for Federal grants-in-aid.

**§ 5.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context indicates otherwise:

*Act*—Section 6 of the act of June 20, 1978 (P. L. 477, No. 70) (71 P. S. §§ 581-1—581-12) which created the Department and set forth its duties and responsibilities.

*Appointing authority*—The Department and area agencies on aging, both public and private, and in their activities to select personnel to fill positions whether covered by civil service provisions or not.

(i) For the Department the appointing authority is the Secretary or designee.

(ii) For public area agencies on aging, the appointing authority is the chief elected officials of the county or designees.

(iii) For private nonprofit area agencies on aging, the appointing authority is the board of directors or its equivalent or designee.

*Area agency on aging*—The single local agency designated within each planning and service area to administer the delivery of a comprehensive and coordinated plan of social and other services and activities.

*Department*—The Department of Aging of the Commonwealth.

*Personnel selection*—The acquisition of full-time or part-time staff. The term includes appointment, promotion, transfer, reinstatement, demotion, reassignment or other method of placing a person in a compensable status.

*Rule of three*—Selection of an eligible person for appointment or promotion from among the three highest ranking available eligibles on a Certification of Eligibles following *Certification of Eligibles for the Classified Service Manual* published by the State Civil Service Commission, Directive # M580.1, Amended, October 7, 1980.

*Secretary*—The Secretary of Aging.

### § 5.3. General preference requirement.

In the selection of personnel to fill vacant positions in the Department and area agencies on aging, preference, subject to this chapter, shall be given to available qualified persons 60 years of age or older.

### § 5.4. Preference in filling civil service positions.

With reference to positions subject to Articles V—VII of the Civil Service Act (71 P. S. §§ 741.501—741.708) and 51 Pa.C.S. §§ 7101—7109 (relating to veteran's preference), the following apply:

(1) Available qualified persons 60 years of age or older are identified on Certifications of Eligibles issued by the State Civil Service Commission for use by appointing authorities.

(2) In order to receive preference, a person identified as being age 60 or older shall be placed among the three highest ranking, available eligibles in accordance with the rule of three.

(3) The preference to be granted to persons 60 years of age or older shall be equivalent to the preference granted to veterans of any age, with the exception that, in the case of age preference, the rule of three may not be eliminated at the discretion of the appointing authority as it may be for veterans. The Civil Service Commission has provided the following example to illustrate this equivalent preference:

<i>Candidate</i>	<i>Age</i>	<i>Status</i>
A	60 or over	NonVet
B	60 or over	Vet
C	under 60	Vet

In this example, candidates A, B and C are the top three eligibles available for appointment to a position with either the Department or an area agency on aging. Three candidates would be eligible for a preference of equal weight; the appointing authority would give equal consideration to all three individuals and could validly appoint any of the three; no additional preference would be available to individuals eligible for both types of preferences; no individual, either less than 60 or nonveteran would have a preference; the age preference would be nontransferable.

#### Cross References

This section cited in 6 Pa. Code § 5.11 (relating to relevance of affirmative action plans to civil service positions).

### § 5.5. Preference in filling positions not covered by civil service.

With reference to positions not subject to Articles V—VII of the Civil Service Act (71 P. S. §§ 741.501—741.708), the following apply:

- (1) Available qualified persons shall be those persons who:
  - (i) Have expressed their candidacy in writing.
  - (ii) Have met the minimum job requirements in accordance with the appointing authority's public advertisement of the position vacancy.
  - (iii) Remain as finalists after the appointing authority has completed its formal candidate screening process.
- (2) Clear preference shall be given to available qualified persons who are 60 years of age or older.

*(Example No. 1—If, after the completion of the appointing authority's candidate screening process, there remain four finalists and one of these is 60 or older, the appointing authority must select the one who is 60 or older.)*

*(Example No. 2—If, after completion of the appointing authority's candidate screening process, there remain four finalists and two of these are 60 or older, either of the two who are 60 or older may be appointed.)*

### § 5.6. Precedence over collective bargaining agreements.

Under section 703 of the Public Employe Relations Act (43 P. S. § 1101.703) this chapter takes precedence over provisions of collective bargaining agreements or memoranda of understanding.

**§ 5.7. Recruitment of persons 60 years of age or older.**

(a) The Department and area agencies on aging, in cooperation with the Civil Service Commission and other State and Federal agencies and community groups, shall insure that effective recruitment programs are developed and implemented which will attract persons 60 years of age or older to service with the Department and area agencies on aging. Where appropriate and feasible, the recruitment efforts shall provide opportunities for persons 60 years of age or older to receive coaching or special preparation for the taking of civil service examinations.

(b) Department positions which become vacant will be advertised throughout the Commonwealth's Aging Network.

(c) Area agency on aging positions which become vacant shall be advertised throughout the planning and service area in publications and locations widely accessible to older persons—for example, senior citizen newsletters, senior centers and church and civic groups.

(d) Advertisements of position vacancies shall include the following information:

- (1) Job title and number of vacancies, if multiple.
- (2) Location of the vacancy.
- (3) Brief description of the job.
- (4) Job requirements.
- (5) Special requirements or conditions (shift work, travel, required licensure).
- (6) Starting salary.
- (7) Contact person.
- (8) Final date for receiving applications.
- (9) Identification as an "Equal Opportunity Employer."

**§ 5.8. Examination for persons 60 years of age or older.**

Under the Civil Service Act (71 P. S. §§ 741.1—741.1005) the Civil Service Commission will administer civil service examinations for the Department and participating area agencies on aging. The Department will work with the Civil Service Commission in order to assure that qualified applicants 60 years of age or older are tested in quarters which provide a suitable and convenient environment; that testing conditions will allow persons 60 years of age or older to perform to the best of their ability; and that an applicant's final earned rating is weighted in such a manner as to reflect the applicant's experience, where the experience is a valid requisite for a particular position. Area agencies on aging which become aware of older persons who have problems or concern in this regard should contact the Department's Division of Personnel. The Division of Personnel will work with the Civil Service Commission to address these problems and concerns.

**§ 5.9. Training programs for persons 60 years of age or older.**

The Department and area agencies on aging shall arrange for and conduct training programs for persons 60 years of age or older in order to qualify them for positions of higher or expanded responsibility.

**§ 5.10. Documentation required in area agency on aging affirmative action plans.**

(a) Area agency on aging affirmative action plans and updates as required by the Department, include the following documentation of efforts to carry out the provisions of this chapter:

- (1) Copies of advertisements of position vacancies.
- (2) A record of where the advertisement was circulated.
- (3) Application flow data on each vacancy filled by the agency, indicating each qualified candidate and his status, that is, age, sex, race and the like; screening process results; and final selection by placing an asterisk beside the name of the person selected.
- (4) Narrative reports of special recruitment and training efforts carried out by the area agency on aging to attract or qualify persons 60 years of age or older to fill positions with the agency, for example, efforts to motivate older persons to seek qualification for positions subject to the Civil Service Act (71 P. S. §§ 741.1—741.1005).

(b) With reference to subsection (a)(3), area agencies on aging shall retain applications on file for future reference or review by the Department for a period of 3 years.

**§ 5.11. Relevance of affirmative action plans to Civil Service positions.**

Notwithstanding the provisions of § 5.4(3) (relating to preference in filling civil service positions) area agencies on aging are expected to take advantage of reasonable opportunities to fill positions with persons 60 years of age or older in those situations where affirmative action plans clearly indicate a need to place more persons from this population subgroup in vacant positions.

**§ 5.12. Applicability.**

This chapter applies to the Department and to area agencies on aging, both public and nonpublic.

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