Reserve Organization of America

Law Review 26093

CALIFORNIA: VETERANS' PREFERENCE

By Deng Majok

RESERVE SERVICE LAW CENTER

EXECUTIVE SUMMARY

California places eligible veterans who pass a civil service exam at the top of the eligibility list for open state jobs. The preference also covers surviving spouses and spouses of 100% disabled veterans, but ends once a person gains permanent civil service status.

Veterans' Preference:
California

The Federal Veterans' Preference Act (VPA)

The Federal Veterans' Preference Act (VPA), as explained in Law Review 0721 (May 2007), gives certain veterans an advantage in securing federal civil service jobs. The VPA does not apply to state and local government employment, but most states have their own veterans' preference laws that apply to the state and its political subdivisions (counties, cities, school districts, and other units of local government).

Federally, Veterans who are disabled or served on active duty in the U.S. Armed Forces during specific time periods or in military campaigns are entitled to preference over non-Veterans in hiring into the Federal civil service and during reductions in force. By Federal law, Veterans may be granted 5 or 10 points in any scoring process for examinations or interviews.

5-Point Hiring Preference:

- Five points are added to the examination score or rating of a Veteran who served during a war.

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- Five points are added to the examination score or rating of a Veteran who served between April 28, 1952, and July 1, 1955.
- Five points are added to the examination score or rating of a Veteran who served for more than 180 consecutive days, excluding training, after January 31, 1955, and before October 15, 1976.
- Five points are added to the examination score or rating of a Veteran who served during the Gulf War from August 2, 1990, to January 2, 1992.
- Five points are added to the examination score or rating of a Veteran who served for more than 180 consecutive days, excluding training, after September 11, 2001, and before August 31, 2010, the last day of Operation Iraqi Freedom.
- Five points are added to the examination score or rating of a Veteran who served in a campaign or expedition for which a campaign medal has been authorized. Any Armed Forces Expeditionary medal or campaign badge, including El Salvador, Lebanon, Grenada, Panama, Southwest Asia, Somalia, and Haiti, qualifies for preference.

10-Point Compensable Disability (CP) Preference:

- Ten points are added to the examination score or rating of a Veteran who served at any time and has a compensable service-connected disability rating of at least 10% but less than 30%.
- 10-Point Compensable Disability Preference (CPS): Ten points are added to the passing examination score or rating of a Veteran who served at any time and has a compensable service-connected disability rating of 30% or more.
- 10-Point Disability Preference (XP): Ten points are added to the passing examination score or rating of a Veteran who served at any time and has a present service-connected disability, is receiving compensation, disability retirement benefits, or pension from the military or the VA, but does not qualify as a CP or CPS. Alternatively, it is for a Veteran who received a Purple Heart.
- 10-Point Derived Preference (XP): Ten points are added to the passing examination score or rating of spouses, surviving spouses, or mothers of Veterans. Both a mother and a spouse (including a surviving spouse) may be entitled to preference based on the same Veteran's service if they both meet the requirements. However, neither may receive preference if the Veteran is living and is qualified for Federal employment.

Ten points are added to the passing examination score or rating of the spouse of a disabled Veteran who is disqualified for a federal position due to a service-connected disability that significantly impacts their usual occupation. This disqualification may be presumed when the Veteran is unemployed and meets one of the following criteria: (1) Is rated by appropriate military or VA authorities as 100% disabled and/or unemployable, or (2) Has retired, been separated, or resigned from a civil service position due to a service-connected disability, or (3) Has attempted to obtain a civil service position or a position similar to their usual occupation but failed to qualify due to a service-connected disability.

Preference may be granted in other circumstances, but any situation that falls short of these criteria warrants a more thorough analysis.

A campaign medal holder or Gulf War Veteran who initially enlisted after September 7, 1980, or began active duty on or after October 14, 1982, and has not completed 24 consecutive months of active duty, must serve for a minimum of 24 months or the entire duration of their active duty call or order. However, this requirement does not apply to 10-point preference eligible Veterans who were separated due to disability resulting from or aggravated in the line of duty, or to Veterans who were separated due to hardship or other reasons under Title 10 U.S.C. 1171 or 1173.

California State Employee Veterans' Hiring Preference[1]:

§50088 – Veterans' Preference System
(a) As used in this section:
(1) "Civil service system," as applied to a county or city or county, means the approved local merit system (ALMS).
(2) "Veteran" has the same meaning as in Section 18973.
(3) "Veterans service office" means an office established pursuant to Section 970 of the Military and Veterans Code.
(b) When any city, county, or city and county, general law or chartered, has established a civil service system and entrance examination for the selection of appointive officers and employees, the board of supervisors or city council, by January 1, 2002, shall either implement a veterans' preference system giving preference to a veteran over other identically qualified applicants, or shall adopt a resolution identifying reasons that it does not implement a veterans' preference system.
(c) Nothing in this act shall be construed to require a city, county, or city and county, to implement a veterans' preference system. However, it is the intent of the Legislature in enacting this section that cities, counties, and cities and counties, to the extent possible, further the public policy embodied in Section 6 of Article VII of the California Constitution to promote veterans' preference.
(d) In enacting this section, the Legislature finds and declares that veterans' preference in civil service examinations is a matter of statewide concern.**(e)** It is the intent of the Legislature that a board of supervisors or city council may seek the voluntary assistance of a veterans service office serving that area in implementing a veterans' preference system.

California offers Veterans' Preference to eligible Veterans and their spouses or surviving spouses when hiring for state employment. This preference can be applied to open and open, non-promotional applications.

[1] California Government Code Article 4 – Officers and Employees §50088, Veterans' Preference System.

Applicants who pass a civil service examination are ranked at the top of the resulting eligibility list. However, Veterans' Preference is not granted once a person achieves permanent civil service status.

The following individuals are eligible for Veterans' Preference:

- Veterans who served on active duty in the U.S. Armed Forces for 30 days or more during a time of war or in peace time when a campaign or expeditionary medal was authorized and were discharged or released under conditions other than dishonorable.
- Veterans who served on active duty in the U.S. Armed Forces for at least 181 consecutive days and were discharged or released under conditions other than dishonorable.
- Surviving spouses of eligible Veterans.
- Spouses of 100% disabled Veterans.

To apply for Veterans' Preference, applicants must submit the following documents:

- A copy of their Veteran's DD214.
- A completed copy of the California Department of Human Resources, Veteran's Preference Instructions and Application.
- Spouses and surviving spouses must also provide the following documents:
- A marriage certificate.
- A Veteran's death certificate (if applicable).
- A Veteran's VA Benefits Summary Letter (if applicable).

Completed applications and supporting documents can be submitted to the California Department of Human Resources.
Attention: Examination Unit

1515 S Street
Sacramento, CA 95811

Veterans who retired from the U.S. Armed Forces or were honorably discharged from active duty and are eligible to compete in civil service promotional examinations will have their names added to the promotion eligibility list. However, they must meet the minimum qualifications for the promotion and pass the examination to be eligible.

Q: The great majority of veterans are men. Does a veterans' preference law discriminate against women and violate the Equal Protection Clause of the Constitution's Fourteenth Amendment?

A: In 1979, the Supreme Court considered and rejected that argument, by a 7-2 vote. Even if the effect of a veterans' preference law is to benefit many more men than women, the purpose of the law is to benefit veterans, not to discriminate against women.[2]

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ROA is more than a century old—on 10/2/1922 a group of veterans of "The Great War," as World War I was then known, founded our organization at a meeting in Washington's historic Willard Hotel. The meeting was called by General of the Armies John J. Pershing, who had commanded American troops in the recently concluded "Great War." One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For more than a century, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation's defense needs.

Through these articles, and by other means, including amicus curiae ("friend of the court") briefs that we file in the Supreme Court and other courts, we advocate for the rights and interests of service members and educate service members, military spouses, attorneys, judges, employers, Department of Labor (DOL) investigators, Employer Support of the Guard and Reserve (ESGR) volunteers, federal and state legislators and staffers, and others about the legal rights of service members and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA, but please understand that ROA members, through their dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

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[2] *See Personnel Administrator of Massachusetts v. Feeney*, 442 U.S. 256, 276 (1979). *See generally* Law Review 24055 (December 2024).
[3] *See* https://crsreports.congress.gov/product/pdf/IF/IF10540/. These are the authorized figures as of 9/30/2022.
[4] Congress recently established the United States Space Force as the eighth uniformed service.
[5] Spouses, widows, and widowers of past or present members of the uniformed services are also eligible to join.

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If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

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About the Author

Deng received his Juris Doctor from Baylor University School of Law and received his Bachelor of Science in Sociology, his Bachelor of Science in Criminal Justice, and his minor in Political Science, from Abilene Christian University. As a division-1 student-athlete, Deng played cornerback for the Abilene Christian University Football Team from 2015-19, and Pole Vaulted with the Abilene Christian University Track and Field Team in 2015.

[6] You can also contribute on-line at www.roa.org.