Reserve Organization of America

Law Review 26095

COMMONWEALTH OF PUERTO RICO: VETERANS' PREFERENCE

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RESERVE SERVICE LAW CENTER

EXECUTIVE SUMMARY

Puerto Rico adds 10 points or 10%, whichever is greater, to veterans' passing scores for government jobs and promotions. Government employees called to active duty may return to the same or a similar position if they apply within 180 days of an honorable discharge.

Veterans' Preference:
Commonwealth of Puerto Rico

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).

Puerto Rico Government Employment Veteran Hiring Preference and Reinstatement to Position Rights[1]:

§737(f). Rights granted

(f) Rights related to work.—

(1) The Government of the Commonwealth of Puerto Rico, its agencies and instrumentalities, public or quasi-public corporations, municipalities and all private, natural or juridical persons who operate businesses in Puerto Rico, shall be under the obligation to:

[1] 2023 Laws of Puerto Rico Title Twenty-Nine Part IV Chapter 62 §737(f), Rights granted – Rights related to work.

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(A) Give preference to a veteran, under equal academic and technical conditions or experience regarding his/her appointment or promotion for any position, job or employment opportunity.

(B) Reinstate a veteran or reservist to the same position or work he/she was performing when he/she was called to active service or voluntarily joined the Armed Forces, or to an equal or similar position, if the veteran formally requests his employer to do so within one hundred and eighty (180) days following his/her honorable discharge from the Armed Forces. If such a position does not exist, the veteran shall have placement priority in another position within the company or government agency, and the employer shall be responsible for doing everything possible to train or retrain the veteran. This right does preclude the obligations the employer may have under the American with Disabilities Act, Public Law 101-336, or any other federal or Commonwealth legislation that may be of benefit to the veteran who returns to his/her job or to the active labor market.

(C) In those cases whereby, as a requirement of the process for employment, a veteran has taken any test or exam as part of an employment, reinstatement or promotion application and in the corresponding test or exam said veteran had obtained the minimum punctuation required to qualify for employment, reinstatement or promotion to the corresponding position, said veteran is guaranteed the right to have his/her punctuation increased by adding ten (10) points or ten percent (10%), whichever is greater, to the punctuation obtained by said veteran in the corresponding test or exam.

(D) Offer competitive tests to any veteran who, due to being in active service, has not been able to take the competitive tests and who requests the same within one hundred and eighty (180) days after having returned to work; and if he/she passes said tests, the veteran's name is to be included in the corresponding list or register.

(E) Notify the Office of the Advocate for Veterans Affairs about any employment announcements for any competitive positions or jobs available. Said Office shall in turn notify duly organized veterans organization through a web page of said Office accessible through the Internet or rather in the web portal of the Government of Puerto Rico or through any other means deemed pertinent.

(F) Every member of the Armed Forces of the United States who holds a regular post within the Commonwealth, its dependencies, public corporations, municipalities and/or any other public body or instrumentality, or a regular post in the public sector, or an equal or similar post to the one he/she occupied with the same rights and privileges the employee would have had at the time of entering active services in the Armed Forces is hereby guaranteed the right to reemployment. The employee shall retain all his/her rights and privileges including, but not to be understood as a limitation, his/her right to seniority as if he/she had continued occupying the position he/she had when he/she joined the Armed Forces as well as any development or growth in the position he/she occupied had he/she continued occupying the same uninterruptedly, among others. The right to reemployment shall be extended for the period during which the veteran is in active service in the Armed Forces, regardless of the number of years said veteran serves in the Armed Forces. Provided, That this rule shall not apply retroactively to those person who have not previously been veterans nor members of the reserve corps, and who voluntarily enlist as new members of the regular Armed Forces.

Puerto Rico offers a hiring preference to Veterans applying for government jobs, reinstatement, or promotion. This preference is achieved by adding 10 points or 10% (whichever is greater) to passing examination scores.

Veterans who are required to leave their government job due to active duty service and unable to take competitive tests can request to take the test within 180 days of returning to work. If the Veteran passes the test, their name must be included in the corresponding list or register.

Puerto Rico government employees who are called to active duty are entitled to reinstatement to the same or similar position if they apply within 180 days of receiving an honorable discharge. If the position is no longer available, the Veteran will have priority in another position within the government agency. They will retain all their rights and privileges, including seniority, and any development or growth in the position they would have been eligible for.

This right to reemployment applies to the entire duration of the Veteran's active duty service in the U.S. Armed Forces, regardless of the number of years. This rule does not apply to government employees who voluntarily enlist to serve on active duty.

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

[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.

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.

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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.

[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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