Reserve Organization of America

Law Review 26099

FLORIDA: VETERANS' PREFERENCE

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RESERVE SERVICE LAW CENTER

Veterans' Preference:
Florida

EXECUTIVE SUMMARY

Florida adds 10 to 20 points to passing state exam scores, depending on status, for disabled veterans, wartime veterans, current Reserve Component members, and certain spouses, surviving spouses, and Gold Star parents. The preference also reaches promotions and reemployment.

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).

Florida State Employment Veterans' Preference[1]:

§295.188 – Preference in Hiring Veterans for Private Employers
(1) The Legislature intends to establish a permissive preference in private employment for certain veterans.
(2) A private employer may adopt an employment policy that gives preference in hiring to an honorably discharged veteran, as defined in s. 1.01(14); the spouse of a veteran with a service-connected disability,

[1] 2018 Florida Statute Title XX Chapter 295 §295.188, Preference in Hiring Veterans for Private Employers. 2018 Florida Statute Title 1. Chapter 1.01, Definitions. 2018 Florida Statute Title XX Chapter 295 §295.07, Preference in Appointment and Retention

as described in s. 295.07(1)(b); the unremarried widow or widower of a veteran who died of a service-connected disability, as described in s. 295.07(1)(d); or the unremarried widow or widower of a member of the United States Armed Forces who died in the line of duty under combat-related conditions. Such policy shall be applied uniformly to employment decisions regarding hiring and promotion.
(3) These preferences are not considered violations of any state or local equal employment opportunity law.

§295.07 – Preference in Appointment and Retention
(1) The state and political subdivisions in the state shall give preference in appointment and retention in positions of employment to:
(a) Those disabled veterans:
1. Who have served on active duty in any branch of the Armed Forces of the United States, have been separated therefrom under honorable conditions, and have established the present existence of a service-connected disability which is compensable under public laws administered by the U.S. Department of Veterans' Affairs, or
2. Who are receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the U.S. Department of Veterans' Affairs and the Department of Defense.
(b) The spouse of any person who has a total disability, permanent in nature, resulting from a service-connected disability and who, because of this disability, cannot qualify for employment, and the spouse of any person missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power.
(c) A veteran of any war as defined in s. 1.01(14). The veteran must have served at least 1 day during a wartime period to be eligible for veterans' preference. Active duty for training shall not be allowed for eligibility under this paragraph.
(d) The unremarried widow or widower of a veteran who died of a service-connected disability.
(2) The Department of Veterans' Affairs shall adopt rules to ensure that veterans are given special consideration in the employing agency's selection and retention processes. The rules must include the award of point values as articulated in s. 295.08, if applicable, or, where point values are not relevant, must include procedures to ensure that veterans are given special consideration at each step of the employment selection process, unless the sponsoring governmental entity is a party to a collective bargaining agreement, in which case the collective bargaining agreement must comply within 90 days following ratification of a successor collective bargaining agreement or extension of any existing collective bargaining agreement.
(3) Preference in employment and retention may be given only to eligible persons who are described in subsection (1) and who are residents of this state.
(4) The following positions are exempt from this section:
(a) Those positions that are exempt from the state Career Service System under s. 110.205(2); however, all positions under the University Support Personnel System of the State University System as well as all Career Service System positions under the Florida Community

College System and the School for the Deaf and the Blind, or the equivalent of such positions at state universities, community colleges, or the School for the Deaf and the Blind, are included.

(b) Positions in political subdivisions of the state which are filled by officers elected by popular vote or persons appointed to fill vacancies in such offices and the personal secretary of each such officer, members of boards and commissions, persons employed on a temporary basis without benefits, heads of departments, positions that require licensure as a physician, licensure as an osteopathic physician, licensure as a chiropractic physician, and positions that require that the employee be a member of The Florida Bar.

§1.01(14) – Definitions

(14) The term "veteran" means a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or during one of the following periods of wartime service:

(a) Spanish-American War: April 21, 1898, to July 4, 1902, and including the Philippine Insurrection and the Boxer Rebellion.

(b) Mexican Border Period: May 9, 1916, to April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders of, or in the waters adjacent to Mexico.

(c) World War I: April 6, 1917, to November 11, 1918; extended to April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided such veterans had at least 1 day of service between April 5, 1917, and November 12, 1918.

(d) World War II: December 7, 1941, to December 31, 1946.

(e) Korean War: June 27, 1950, to January 31, 1955.

(f) Vietnam War: February 28, 1961, to May 7, 1975.

(g) Persian Gulf War: August 2, 1990, to January 2, 1992.

(h) Operation Enduring Freedom: October 7, 2001, and ending on the date thereafter prescribed by presidential proclamation or by law.

(i) Operation Iraqi Freedom: March 19, 2003, and ending on the date thereafter prescribed by presidential proclamation or by law.

Florida offers various preferences for hiring, promotions, and reemployment opportunities for service members, Veterans, spouses, and Gold Star Parents. These preferences are outlined in Florida Statutes 295.07 and 295.08.

Honorably Discharged Veteran with a Service-Connected Disability: Eligible applicants with a service-connected disability who are receiving compensation, disability retirement, or pension from the VA receive 20 points added to their passing scores.

Spouse of a Veteran or Service Member:
- Spouses of Veterans or service members who cannot work due to a total and permanent service-connected disability receive 20 points added.
- Spouses of Veterans or service members declared prisoners of war or missing in action receive 20 points added.
- Unremarried surviving spouses of Veterans who died from a service-connected disability receive 15 points added.
- Unremarried surviving spouses, mothers, fathers, or legal guardians of service members who died in the line of duty under combat-related conditions receive 15 points added.

Honorably Discharged Veteran with Active Duty Service: Eligible applicants who served at least one day on active duty during a Florida Statute Wartime Period (active duty for training does not qualify) receive 15 points added.

Current Member of a Reserve Component of the U.S. Armed Forces: Eligible applicants who are current members of a reserve component of the U.S. Armed Forces receive 10 points added.

Preference for Examination-Based Applicants: When an examination is not given, preference is given to every VP eligible applicant who meets the minimum requirements for the job. Any VP eligible applicant who meets the minimum requirements for the job is guaranteed an interview. If there are two VP candidates who equally qualify, the selection is based on how each candidate qualified for VP. A qualifying disabled Veteran will always be selected over any other applicants.

Reemployment Preference: When a state employee is required to serve in the U.S. Armed Forces, they are entitled to reemployment to the same or an equal position. The Veteran must return to their state job within one year of discharge.

Promotion Preference: To be eligible for the Vice President position, a service member must have a break in state employment and be deployed under Title 10. After discharge, they must return to the same state employer. Service members are authorized one promotion opportunity for every deployment, except for active duty training.

Florida Statutes 295.09: Florida state employers are permitted to waive postsecondary education requirements for a position of employment if the applicant meets other qualifications. This education waiver is offered to service members serving in the Florida National Guard, the U.S. Armed Forces Reserves, and honorable discharged Veterans.

Florida Statutes 295.065: If an eligible applicant for the Vice President position is not selected, an upper management employee with the authority to reverse the decision must review the selected applicant and the VP-eligible applicants. They must determine if the most qualified person was chosen. All applicants must provide documentation to support their claim for the VP

position. For more information, contact 727-518-3202, extension 5511, or veteranspreference@fdva.state.fl.us.

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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[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.

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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:

Reserve Organization of America
1 Constitution Ave. NE
Washington, DC 20002[6]

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.
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