Reserve Organization of America

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IDAHO: VETERANS' PREFERENCE

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RESERVE SERVICE LAW CENTER

Veterans' Preference:
Idaho

EXECUTIVE SUMMARY

Idaho adds 5 points for honorably discharged veterans with 180 days of active duty and 10 points for disabled veterans and Purple Heart recipients on public exams; where no scores are used, qualified veterans go first. Private employers may adopt a preference too.

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).

Idaho Public Employment Veterans Hiring Preference[1]:

§65-513. Preference by Private Employers.
A private, nonpublic employer may give preference in the hiring and promotion of employees to those who are eligible for preference under the provisions of section 65-503, Idaho Code.

[1] Idaho Statutes Title 65 Chapter 5 §65-513, Preference by Private Employers. Idaho Statutes Title 65 Chapter 5 §65-503, Eligibility for Preference. Idaho Statutes Title 65 Chapter 5 §65-502, Definitions.

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§65-503 – Eligibility for Preference. The following individuals are eligible for preference:

(1) Veterans as defined in section 65-203, Idaho Code, and disabled veterans as defined in section 65-502, Idaho Code;

(2) A widow or widower of any veteran as long as he or she remains unmarried; and

(3) The wife or husband of a service-connected disabled veteran if the veteran cannot qualify for any public employment because of a service-connected disability.

65-203 – "VETERAN" DEFINED.

(1) The term "veteran," as used in this chapter, shall include any person who is a bona fide resident of the state of Idaho, who served on active duty in the United States military, naval, or air service and was discharged or separated under honorable conditions after ninety (90) days of continuous active duty, or was separated or discharged from military service earlier than ninety (90) days under honorable conditions because of a service-connected disability.

(2) The term "wartime veteran," as used in this chapter, shall include any person who is a bona fide resident of the state of Idaho who served on active duty in the United States armed forces at some time during any period of war recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11), who was separated or discharged under honorable conditions after ninety (90) days of continuous active duty or was separated or discharged from military service earlier under honorable conditions because of a service-connected disability.

§65-502 – Definitions. As used in this chapter:

(1) "Applicant" means an individual applying for a position with a public employer.

(2) "Armed forces" means the army, navy, marine corps, coast guard, space force, air force, and the reserve components thereof.

(3) "Civil service position" means a position for which the public employee is selected from a pool of applicants through a competitive examination, a merit system or any other rating system based on experience and qualifications.

(4) "Disabled veteran" means those veterans separated under honorable conditions who:

(a) Qualify as disabled veterans because they have served on active duty in the armed forces and have a current service-connected disability of ten percent (10%) or more or are receiving compensation related to a service-connected disability including retirement benefits or pension from the military or the department of veterans affairs; or

(b) Are purple heart recipients.

(5) "Honorable conditions" means an honorable discharge or a general discharge "under honorable conditions."

(6) "Initial appointment" means the first time a qualified veteran is hired by a county or a municipal government or the state, provided however, subsequent separation from the county, municipal government or the state shall not result in the award of new preference or preference points with that governmental entity. "Initial appointment" shall not include:

(a) Jobs held by patients, inmates or students in or enrolled at a state institution;

(b) Temporary or casual employment; or

(c) An office filled by election.

(7) "Key employee" means an individual specifically hired for an "at will" position that is not a civil service position and where:

(a) The position requires an advanced degree and the exercise of independent judgment for a majority of the public employee's duties;

(b) The primary duty of the position is the management of a department or subdivision of the public employer and the position requires the exercise of independent judgment for a majority of position duties;

(c) The primary duty of the position is administrative work arising from the management of a department or subdivision of the public employer or administrative work arising from the exercise of the duties of an elected official and the public employee holds a confidential relationship to the appointing or employing officer or elected official; or

(d) The primary duty of the position is to provide advice or consultation to an elected official and the public employee holds a confidential relationship to the elected official.

(8) "Military duty" means training and service performed by an inductee, enlistee or reservist or any entrant into a component of the armed forces of the United States, provided "military duty" shall not include active duty training as a reservist in the armed forces of the United States or as a member of the national guard of the United States where the call is for training only.

(9) "Position" means a job held by a public employee but shall not include:

(a) A job held by a patient, inmate or student in or enrolled at a state institution;

(b) Temporary or casual employment; or

(c) An office filled by election.

(10) "Preference eligible" means an individual eligible for preference under section 65-503, Idaho Code.

(11) "Public employee" means any person holding a position in public employment.

(12) "Public employer" means any government, department or agency mentioned in subsection (13) of this section employing a public employee in a position.

(13) "Public employment" means employment by the government of this state, or by any county, municipality or other political subdivision of the state, including any department or agency thereof.

(14) "Register" means a list of names of persons who have been determined to be eligible for employment in a civil service position.

(15) "Service-connected disability" means that the veteran is disabled due to injury or illness that was incurred in or aggravated by military service as certified by the federal veterans administration or an agency of the department of defense.

(16) "Temporary or casual employment" means employment for a brief, nonrecurrent period where there is no reasonable expectation that such employment will continue indefinitely or for a significant period of time.

When hiring for public employment in Idaho, particularly for initial classified positions, hiring officials must prioritize qualified Veterans, their spouses, and surviving spouses. For

positions that employ a scoring system, preference is granted by adding points to passing competitive examination scores. In contrast, for positions without a scoring system, Veterans are entitled to preference over other applicants who lack the necessary qualifications.

To be eligible for the five-point Veteran's preference, applicants must meet the following criteria:

- Veterans who served at least 180 days on active duty in the U.S. Armed Forces and received an honorable discharge.
- Unmarried surviving spouses of eligible Veterans.

For the ten-point Disabled Veterans' preference, applicants must meet the following criteria:

- Veterans who served on active duty in the U.S. Armed Forces, received an honorable discharge, and have a service-connected disability rating of 10% or higher.
- Purple Heart recipients.
- Unmarried surviving spouses of eligible Veterans.
- Spouses of Veterans who are unable to qualify for the position due to their service-connected disability.

Additionally, Veterans who served on active duty in the U.S. Armed Forces, received an honorable discharge, and have a service-connected disability rating of 30% or higher will receive ten points and be offered the opportunity to interview if they rank among the top 25 qualified applicants.

Applications by recently discharged veterans (those discharged within 120 days or hospitalized for up to a year) may be filed for any state-classified position that has already closed, provided there is still a vacant position.

Applications by disabled veterans may be filed at any time for Idaho state employment classified positions that maintain a register.

For more information, refer to the Idaho Veterans Preference Form and the Idaho Department of Labor, Veterans Preference Frequently Asked Questions.

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]

[2] *See Personnel Administrator of Massachusetts v. Feeney*, 442 U.S. 256, 276 (1979). *See generally* Law Review 24055 (December 2024).

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[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.

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.