Reserve Organization of America

Law Review 26106

KANSAS: VETERANS' PREFERENCE

By Deng Majok

RESERVE SERVICE LAW CENTER

EXECUTIVE SUMMARY

Kansas gives preference in state hiring to honorably separated veterans who served in qualifying wars, campaigns, or periods. Qualified veterans are offered an interview for vacancies they apply for, and spouses of 100% disabled veterans may also be eligible.

Veterans' Preference:
Kansas

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).

Kansas State Employee Veterans' Hiring Preference[1]:

§73-201. Preference in governmental employment and promotion; notice when veteran not hired; notice of job openings, information regarding preference; remedy when preference not provided. (a) As used in this act:
(1) "Veteran" means:

[1] 2021 Kansas Statutes Chapter 73 Article 2 §73-201, Preference in governmental employment and promotion; notice when veteran not hired; notice of job openings, information regarding preference; remedy when preference not provided. 2015 Kansas Statutes Chapter 73 Article 2 §73-231, Permissive preference in private employment.

(A) Any person who entered the armed forces before October 15, 1976, and separated from the armed forces under honorable conditions, if such person served: (i) On active duty during any war (the official dates for war service are April 6, 1917 through July 2, 1921, and December 7, 1941 through April 28, 1952); (ii) during the period April 28, 1952 through July 1, 1955; (iii) in any campaign or expedition for which a campaign badge or service medal has been authorized; or (iv) for more than 180 consecutive days since January 31, 1955, but before October 15, 1976, excluding an initial period of active duty for training under the "six-month" reserve or national guard program;

(B) any person who entered the armed forces on or after October 15, 1976, and separated from the armed forces under honorable conditions, if such person was awarded a service medal or campaign badge;

(C) any person who separated from the armed forces under honorable conditions and has a disability certified by the United States department of veterans affairs as being service connected, has been issued the purple heart by the United States government or has been released from active service with a service-connected disability;

(D) the spouse of a veteran who has a 100% service connected disability as determined by the United States department of veteran affairs;

(E) the unremarried spouse of a veteran who died while, and as a result of, serving in armed forces; and

(F) the spouse of a prisoner of war, as defined by K.S.A. 75-4364, and amendments thereto.

Notwithstanding the foregoing, the term "veteran" shall not apply to any person who retired from the active military with the pay grade of 04 or above unless the person retired due to wounds received in combat or is a disabled veteran.

(2) "Competent" means a good faith determination that the person is likely to successfully meet the performance standards of the position based on what a reasonable person knowledgeable in the operation of the position would conclude from all information available at the time the decision is made. The basis for such determination shall include experience, training, education, licensure, certification and/or other factors determined by the decision making authority as appropriate to determine the applicant's overall qualification and ability to successfully meet the performance standards of the position. The decision making authority shall document such factors prior to the initiation of the selection process.

(3) "Disabled veteran" means a person who has served on active duty in the armed forces, has been separated therefrom under honorable conditions, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the department of veterans affairs or a military department.

(b) In grateful recognition of the services, sacrifices and sufferings of veterans who served in the army, navy, air force, coast guard or marine corps of the United States in world war I and world war II, and of persons who have served with the armed forces of the United States during the military, naval and air operations in Korea, Viet Nam, Iraq, Afghanistan or other places under the flags of the United States and the United Nations or under the flag of the United States alone, and have been honorably discharged therefrom, the provisions of this section are enacted.

(c) Veterans shall be preferred for initial employment and first promotion in the state government of Kansas, and in the counties and cities of this state, if competent to perform such

services. Any veteran thus preferred shall not be disqualified from holding any position in such service on account of the veteran's age or by reason of any physical or mental disability as long as such age or disability does not render the veteran incompetent to perform the duties of the position applied for. When any veteran shall apply for appointment to any such position, place, or employment, the officer, board or person whose duty it is or may be to appoint a person to fill such place shall, if the applicant be a veteran of good reputation, and can competently perform the duties of the position applied for by the veteran, consider the veteran for appointment to such position, place, or employment. Within 30 days of filling a position, eligible veterans who have applied and are not hired shall be notified by certified mail or personal service that they are not being hired. Such notice also shall advise the veteran of any administrative appeal available.

(d) The provisions of this act shall not be applicable to any persons classed as conscientious objectors. The provisions of this act shall not be controlling over the provisions of any statute, county resolution or city ordinance relating to retirement, or termination on the basis of age, of employees of the state or any county or city. Whenever under any statute, county resolution or city ordinance retirement, or termination on the basis of age, of any employee is required at a certain age, or is optional with the employer at a certain age, such provisions of such statute, resolution or ordinance shall be controlling and shall not be limited by this section.

(e) All notices of job openings, if any, and all applications for employment, if any, by the state and any city or county in this state shall state that the job is subject to a veteran's preference, how the preference works and how veterans may take advantage of the preference and post a written statement of:

(1) The qualifications for such position;

(2) any preferred qualifications of such position;

(3) performance standards for the position; and

(4) the process that will be used for selection. A veteran, or a spouse who qualifies for the veteran's preference, desiring to use a veteran's preference shall provide the hiring authority with a copy of the veteran's DD214 form or the DD214 form of the veteran under which the spouse qualifies for the preference.

(f) Every employment center of the state and any city or county human resources department, if any, shall openly display documents that indicate that veterans are eligible for a preference in their initial employment and any first promotion within the employment of the governmental entity.

(g) Any veteran who alleges that a state agency, city or county has not provided the veterans preference as required by this act, after exhausting any available administrative remedy, may bring an action in the district court.

§73-231. Permissive preference in private employment

(a) As used in this section, "veteran" shall have the meaning ascribed to it in K.S.A. 73-201, and amendments thereto.

(b) There is hereby established a permissive preference in private employment for veterans.

(c) A private employer may adopt an employment policy that gives preference in hiring to a veteran, provided that the veteran meets the requirements of the vacant position.

(d) Such employment policy shall be:

(1) In writing; and

(2) applied consistently to all decisions regarding initial employment.

(e) The veteran shall submit proof of such veteran's military service and honorable discharge or general discharge under honorable conditions to a private employer with such veterans preference employment policy to establish eligibility for the preference.

State Law – K.S.A. 73-201 grants veterans' preference to veterans who separated honorably from the armed forces under honorable conditions. The preference is approved based on the following criteria:

Entry into the Armed Forces: Veterans who entered the armed forces before October 15, 1976, are eligible for preference.

Wars and Campaigns: Veterans who served during specific wars or campaigns are eligible for preference. These include wars between April 6, 1917, and July 2, 1921, and December 7, 1941, and April 28, 1952, as well as campaigns or expeditions for which a campaign badge or service medal was authorized. Additionally, veterans who served for more than 180 days since January 31, 1955, but before October 15, 1976, are eligible, excluding the six-month Reserve or Nation Guard training program.

Entry into the Armed Forces after October 15, 1976: Veterans who entered the armed forces on or after October 15, 1976, are also eligible for preference. They are eligible for preference in any campaign or expedition for which a campaign badge or service medal was authorized. Examples of some of the most common campaign medals include Haiti, El Salvador, Lebanon, Grenada, Panama, Bosnia, Kosovo, Iraq, Afghanistan, Southwest Asia (Persian Gulf), Rwanda, and Somalia.

Disability Certification: Veterans who separated from the armed services under honorable conditions and have a disability certified by the United States Department of Veterans Affairs as being service-connected, who received the Purple Heart from the United States government, or who were released from active service with a service-connected disability are eligible for preference.

Voluntary Retirement: Veterans who voluntarily retired from active service with a pay grade of 03 or lower, unless they retired due to wounds received in combat or are disabled veterans, are also eligible for preference.

If your spouse is a veteran with a 100% service-connected disability or 100% unemployable, as determined by the United States Department of Veterans Affairs, you may be eligible for veterans' preference.

If your spouse is the unremarried spouse of a service member who died while serving in the armed forces, you may be eligible for veterans' preference.

If your spouse is a prisoner of war, as defined by K.S.A. 75-4364 and amendments thereto, you may be eligible for veterans' preference.

Veterans who meet the requirements for a vacant position will be offered an interview for that position if all of the following conditions are met:

1. The vacancy is a regular classified position that states in its job notice that it is "Veterans Preference" Eligible (VPE). This includes all external, internal, or agency-only vacancies.
2. No individuals who are eligible for the Kansas Employee Preference Program have applied for that vacancy.
3. The military service member was not dismissed or did not resign in good standing from state service.
4. The military service member's active duty was not for the Reserves or National Guard training.
5. The military service member is separated and not on active service at the time of application.

Applicants who are claiming veterans' preference for the first time must submit a complete, legible copy of their discharge document (DD 214), which should include enlisted and discharge dates, type of discharge, medals received, and other relevant information.

Please mail the copy of your DD 214 to:

Office of Personnel Services
900 SW Jackson Room 401-N
Landon State Office Building
Topeka, Kansas 66612-1251

Alternatively, you can fax your DD-214 to (785) 291-3715.

The Kansas Department of Administration Website highlights some of the most critical information regarding Veterans' Preference laws in the state of Kansas. Why and when preference is given, how to determine eligibility, and how to identify Veterans' Preference Eligible (VPE) Job Vacancies are just some of the frequently asked questions addressed on the Kansas Department of Administration Website.

Whether a Veteran is guaranteed for the job, how to apply for Veterans' Preference, and how to be successful in a State Job Search are also other frequently asked questions addressed on the Kansas Department of Administration Website. The link is included below:

https://admin.ks.gov/offices/personnel-services/jobs/veterans-preference

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]

Please join or support ROA

This article is one of 2,200-plus "Law Review" articles available at Law Center | ROA. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. We add new articles each month.

ROA is the nation's only national military organization that exclusively and solely supports the nation's reserve components, including the Coast Guard Reserve (6,179 members), the Marine Corps Reserve 32,599 members), the Navy Reserve (55,224 members), the Air Force Reserve (68,048 members), the Air National Guard (104,984 members), the Army Reserve (176,171 members), and the Army National Guard (329,705 members).[3]

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.

If you are now serving or have ever served in any one of our nation's eight[4] uniformed services, you are eligible for membership in ROA,[5] and a one-year membership only costs $20 or $450 for a life membership. Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to those who are serving or have served in the Active Component, the National Guard, or the Reserve. If you are eligible for ROA membership, please join. You can join on-line at Reserve Organization of America - ROA or call ROA at 800-809-9448.

---

[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.

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.

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