Reserve Organization of America

Law Review 26111

MASSACHUSETTS: VETERANS' PREFERENCE

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RESERVE SERVICE LAW CENTER

EXECUTIVE SUMMARY

Massachusetts gives absolute preference to veterans and eligible family members who score 70 or above on open competitive civil service exams, placing them at the top of the list. Veterans also get preference in non-exam hiring and two points on promotional exams.

Veterans' Preference:
Massachusetts

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).

Massachusetts State Employment Veterans Hiring Preference[1]:

§9A. Massachusetts Code - Chapter 30 — Section 9A. Veterans holding unclassified positions; separation from state service
https://law.justia.com/codes/massachusetts/2006/gl-pt1-toc/30-9a.html

[1] 2006 Massachusetts Code Chapter 30 §9A, Veterans holding unclassified positions; separation from state service. 2006 Massachusetts Code Chapter 31 §26, Order of persons on eligible lists; veteran's preference; disabled veterans; fire and police service. 2006 Massachusetts Code Chapter 31 §12, Provisional appointments.

M.G.L. c. 30, § 9A
If you've held a state non-civil service position for more than three years, you can't be involuntarily separated for lack of work or money if similar offices or positions exist.

This clause doesn't apply if other positions are also held by veterans. In that case, work separations occur in reverse order of the original appointments.

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§26. 2006 Massachusetts Code - Chapter 31 – Section 26. Order of persons on eligible lists; veteran's preference; disabled veterans; fire and police service
https://law.justia.com/codes/massachusetts/2006/gl-pt1-toc/31-26.html

M.G.L. c. 31, § 26
Veterans seeking a civil service position receive preference based on the following order:
- Disabled veterans
- Veterans
- Spouses or single parents of veterans who were killed in action or who died from a service-connected disability incurred during wartime service, provided that the spouse or parent has not remarried.

§12. 2006 Massachusetts Code - Chapter 31 – Section 12. Provisional appointments
https://law.justia.com/codes/massachusetts/2006/gl-pt1-toc/31-12.html

M.G.L. c. 31, § 12
Veterans who apply for civil service jobs without an exam receive preference over equally qualified non-veterans.

If more than one veteran qualifies for a position, the appointing authority makes the hiring decision. If an authority wants to bypass this law, it must get approval from the Human Resources Division (HRD).

HRD's civil service unit also maintains lists of state agencies with vacancies, and will notify interested veterans of openings.

Massachusetts offers Veterans hiring preference for civil service employment.

Veterans or their eligible family members who score 70 points or above on an open competitive exam for a Massachusetts civil service position (including police and firefighters) receive absolute Veterans' preference. They are immediately placed at the top of the eligibility list. This doesn't guarantee a job; they're simply prioritized for hiring when a vacancy arises.

The preference order for eligible Veterans is as follows:

- Disabled Veterans
- All other Veterans
- Spouse and single parents of a Veteran who died in combat or due to a service-connected cause

Eligible Veterans also receive two additional points for promotional exams.

Labor service positions don't require an exam. Veterans, regardless of disability, are placed at the top of the eligibility list. Spouses and single parents of Veterans are below Veterans but above all other applicants.

Service members serving in the National Guard or the U.S. Armed Forces Reserves who are called to active duty and have passed a civil service test are eligible for protection on their original appointment exams. They must request this protection in writing within a year of discharge to continue on or restore to the list for a period equal to their military service time. If a Service member is on multiple lists, they must request protection separately for each list.

Veterans who apply for civil service jobs that don't require an exam and, consequently, don't have a list, receive preference over non-Veterans. If there are multiple Veterans vying for the same position, the hiring authority has the discretion to make the choice. However, if a hiring authority intends to circumvent this law, they must obtain approval from the Human Resource Division's (HRD) civil service unit. The HRD's civil service unit also maintains lists of state agencies with vacancies and promptly informs interested Veterans about these openings.

To be eligible for Veterans Preference, Veterans must adhere to the Massachusetts Definition of a Veteran. The Secretary of the Commonwealth of Massachusetts Website provides the comprehensive definition of a Veteran.

Veterans
M.G.L. c. 4, § 7, Clause 43 established the definition of "veteran" for state benefit purposes. See the Chart of Definitions for more information on service era, "wartime," and status requirements.

To be a "veteran" under Massachusetts law, you must have either of the following:

- **180 days** of regular active duty service, and a last discharge under honorable conditions, OR
- **90 days** of active duty service, one day of which is during "wartime," and a discharge under honorable conditions (except for Vietnam I, which requires 180 days of active duty service).

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.

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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.