Reserve Organization of America

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MONTANA: VETERANS' PREFERENCE

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RESERVE SERVICE LAW CENTER

EXECUTIVE SUMMARY

Montana adds 5 percentage points for veterans and 10 for disabled veterans and eligible relatives when public employers use scoring. Otherwise, preferred applicants are chosen over equally qualified others and may be guaranteed an interview; Guard and Reserve service can qualify.

Veterans' Preference:
Montana

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).

Montana Veterans' Employment Preference Policy[1]:

[1] 2022 Montana Code Annotated Title 39 Chapter 29 Part 1 §39-29-101, Definitions. 2022 Montana Code Annotated Title 39 Chapter 29 Part 1 §39-29-102, Point preference or alternative preference in initial hiring for certain applicants – substantially equivalent selection procedure. 2022 Montana Code Annotated Title 39 Chapter 29 Part 1 §39-29-103, Notice and claim of preference. 2022 Montana Code Annotated Title 39 Chapter 29 Part 1 §39-29-104, Enforcement of preference. 2022 Montana Code Annotated Title 39 Chapter 29 Part 1 §39-29-105, through 39-29-110 reserved. 2022 Montana Code Annotated Title 39 Chapter 29 Part 1 §39-29-111, Retention during reduction in force. 2022 Montana Code Annotated Title 39 Chapter 29 Part 1 §39-29-112, Adoption of rules.

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Montana Code 39-29. Veterans' Employment Preference. Part 1. General Provisions
https://law.justia.com/codes/montana/2022/title-39/chapter-29/part-1/

Montana offers Veterans' Employment Preference when hiring for public employment. This preference is granted by adding points to the scoring process or guaranteeing an interview.

When a public employer uses a scoring procedure, eligible applicants receive the following percentage points added to the scoring process:

- 5 percentage points if the applicant is a Veteran
- 10 percentage points if the applicant is a disabled Veteran or an eligible relative

In contrast, when a public employer employs a selection procedure other than a scoring procedure, they prioritize disabled Veterans, disabled applicants, Veterans, and eligible family members (in that order) over applicants who meet the same qualifications but are not eligible for preference. This preference may include a guaranteed job interview for eligible applicants.

To be eligible for preference, applicants must meet the following requirements:

- U.S. citizenship
- Meeting the minimum qualifications for the position

Veterans must meet one of the following requirements:

- Serving on active duty for 180 days or more (excluding training) in the U.S. Armed Forces and receiving an honorable discharge.
- Serving as a reserve component service member in the U.S. Armed Forces during a time of war or when a Campaign or Expeditionary medal was awarded and receiving an honorable discharge.
- Serving as a Montana National Guard service member who has successfully completed six years of service in the U.S. Armed Forces (with three of those years being in the Montana National Guard).

Disabled Veterans must have received an honorable discharge and meet one of the following requirements:

- Having a service-connected disability rating from the VA or their branch of service and receiving disability retirement benefits or a pension.
- Being a Purple Heart recipient.

Family members of Veterans must meet one of the following requirements:

- Being an unremarried surviving spouse of a Veteran or a disabled Veteran.

Spouses of disabled Veterans whose disabilities prevent them from working, mothers of service members who died under honorable conditions while serving in the U.S. Armed Forces or Veterans with permanent and total service-connected disabilities, if:

- Mother's spouse is completely and permanently disabled
- Mother is the unmarried surviving spouse of the Veteran's father

Additionally, employees eligible for Montana Veterans' Employment Preference are eligible for preference in retention during a reduction in force. Employers must prioritize Veterans, disabled Veterans, or eligible family members over other employees with similar job duties, qualifications, and the same length of service.

Montana Veteran Hiring Preference for Private Employers: Private sector employers in Montana, including for-profit and not-for-profit organizations, may adopt an employment policy that gives preference in hiring to Veterans.

The State of Montana Government Website highlights some of the most important information regarding Veterans' Hiring Preference laws in the state of Montana. Veterans' public employment preference, persons with disabilities public employment preference, and documentation requirements are just some of the topics addressed on the State of Montana Government Website. The link is included below:

https://statecareers.mt.gov/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]

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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:

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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.
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