Reserve Organization of America

Law Review 26117

NEBRASKA: VETERANS' PREFERENCE

By Deng Majok

RESERVE SERVICE LAW CENTER

EXECUTIVE SUMMARY

Nebraska adds a 5% bonus to passing scores for veterans and another 5% for disabled veterans in state and local government hiring, with spouses of active-duty members also covered. Private employers can join a voluntary veterans' preference registry.

Veterans' Preference:
Nebraska

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).

Nebraska State Employment Veterans Hiring Preference[1]:

§48-227. Veterans preference; examination or numerical scoring; notice and application; statement; veteran; duty; notice; contents.
(1) Veterans who obtain passing scores on all parts or phases of an examination or numerical scoring shall have five percent added to their passing score if a claim for such preference is made on the

[1] 2024 Nebraska Revised Statutes Chapter 48 §48-227, Veterans preference; examination or numerical scoring; notice and application; statement; veteran; duty; notice; contents. 2024 Nebraska Revised Statutes Chapter 48 §48-238, Veterans preference in private employment; policy; notice to Commissioner of Labor; registry.

application. An additional five percent shall be added to the passing score or numerical scoring of any disabled veteran.
(2) When no examination or numerical scoring is used, the preference shall be given to the qualifying veteran if two or more equally qualified candidates are being considered for the position.
(3) All notices of positions of employment available for veterans preference and all applications for such positions by the state or its governmental subdivisions shall state that the position is subject to a veterans preference.
(4) A veteran desiring to use a veterans preference shall provide the hiring authority with a copy of the veteran's Department of Defense Form 214, also known as the DD Form 214, or its successor form or record. A spouse of a veteran desiring to use a veterans preference shall provide the hiring authority with a copy of the veteran's Department of Defense Form 214 or its successor form or record, a copy of the veteran's disability verification from the United States Department of Veterans Affairs demonstrating a one hundred percent permanent disability rating, and proof of marriage to the veteran. Any marriage claimed for veterans preference must be valid under Nebraska law.
(5) Within thirty days after filling a position, veterans who have applied and are not hired shall be notified by regular mail, electronic mail, telephone call, or personal service that they have not been hired. Such notice also shall advise the veteran of any administrative appeal available.

§48-238. Veterans preference in private employment; policy; notice to Commissioner of Labor; registry.
(1) For purposes of this section:
(a) Private employer means a sole proprietorship, a corporation, a partnership, an association, a limited liability company, or any other entity with one or more employees;
(b) Veteran means (i) a person who served full-time duty with military pay and allowances in the armed forces of the United States, except for training or for determining physical fitness, and was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), or (ii) the spouse of a veteran who (A) has a one hundred percent permanent disability as determined by the United States Department of Veterans Affairs or (B) was killed in hostile action; and
(c) Voluntary veterans preference employment policy means a private employer's voluntary preference for hiring and promoting a veteran over another equally qualified applicant or employee.
(2) A private employer may adopt a voluntary veterans preference employment policy. Such policy shall be in writing and applied uniformly to decisions regarding hiring and promotion.
(3) If a private employer offers a voluntary veterans preference employment policy, a veteran desiring to use such policy shall provide the private employer with a copy of the veteran's Department of Defense Form 214, also known as the DD Form 214, or its successor form or record. A spouse of a veteran desiring to use such preference shall provide the private employer with a copy of the veteran's Department of Defense Form 214 or its successor form or record, proof of marriage to the veteran, and either (a) a copy of the veteran's disability verification from the United States Department of Veterans Affairs demonstrating a one hundred percent permanent disability rating or (b) a copy of the veteran's Department of Defense Form 1300 or its successor form documenting that the veteran was killed in hostile action.

(4) If a private employer implements a voluntary veterans preference employment policy, it shall notify the Commissioner of Labor of such policy. The commissioner shall use the information to maintain a registry of the private employers that have a voluntary veterans preference employment policy in Nebraska.
(5) A voluntary veterans preference employment policy shall not be considered a violation of any state or local equal employment opportunity law including the Nebraska Fair Employment Practice Act.

Veterans, service members, and their spouses are eligible for a Veterans hiring preference when applying for initial or return employment with the Nebraska state or local government.

Here are the key details:

- Veterans who pass all sections of an examination or receive numerical scores will have a 5% bonus added to their passing score.
- Disabled veterans will receive an additional 5% bonus to their passing score.

This preference extends to the spouse of an active-duty service member and remains valid for up to 180 days after the service member's discharge from the U.S. Armed Forces.

All job openings that offer Veterans Preference must clearly state this preference in their notices and applications. Veterans who apply but are not hired will receive notification and be advised of the administrative appeal process available.

Additionally, the Nebraska Voluntary Veterans Hiring Preference Act allows private sector employers to implement a Veteran hiring preference policy and list their job openings on the Nebraska Department of Labor's Voluntary Veterans Preference Registry.

The Nebraska Department of Administrative Services provides a PDF sheet that highlights some of the most important information regarding Veterans' Preference laws in the state of Nebraska. Understanding Veterans Preference Level Statuses, Documentation, and Veterans Preference Scoring are just some of the topics addressed on the Nebraska Department of Administrative Services PDF Sheet. The link is included below:

https://das.nebraska.gov/personnel/docs/NE_DAS_Personnel_Workday_User_Guides-VeteransPreferenceGuide.pdf

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).

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.

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

[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.

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.