Reserve Organization of America

Law Review 26120

NEW JERSEY: VETERANS' PREFERENCE

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RESERVE SERVICE LAW CENTER

EXECUTIVE SUMMARY

New Jersey gives absolute preference in civil service hiring: qualified veterans who pass the exam go to the top of open competitive lists ahead of non-veterans, with disabled veterans ranked highest. A service certification can stand in until a DD214 is issued.

Veterans' Preference:
New Jersey

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).

New Jersey State Employment Veterans Civil Service Preference[1]:

§11A:5-1.1. Veteran status determined for civil service preference

3. a. The Adjutant General of the Department of Military and Veterans' Affairs shall be responsible for determining whether any person seeking to be considered a "veteran" or a "disabled veteran" under N.J.S.11A:5-1, for the purpose of receiving civil service preference, meets the criteria set forth therein and adjudicating an

[1] 2024 New Jersey Revised Statutes Title 11A §11A:5-1.1, Veteran status determined for civil service preference. New Jersey Administrative Code Title 5A Chapter 9 Subchapter 1 §5A:9-1.3, Disabled veterans' preference. NJ State Law P.L. 2007, Chapter 115.

appeal from any person disputing this determination. The determination of the Adjutant General shall apply only prospectively from the date of initial determination or date of determination from an appeal, as appropriate, and shall be binding upon the commission.

b. A person seeking to be considered a "veteran" or a "disabled veteran" under N.J.S.11A:5-1, for the purpose of receiving civil service preference, who has not yet been issued Form DD-214 as proof of military service may submit, in lieu thereof, an official certification or verification of military service statement or letter that provides the date of entry into military service, the estimated date of discharge or release, the character of the discharge, and such other information as the Adjutant General shall require. The Adjutant General shall specify the form, content, and source for an official certification or verification of military service statement or letter based on such statements or letters that are approved and provided by the federal military authorities.

The person shall submit to the Adjutant General the Form DD-214 no later than 30 days from the date the person receives the form. If a copy is not provided, the prior determination of veteran status shall be revoked.

§5A:9-1.3. Disabled veterans' preference

(a) To be eligible for disabled veterans' preference under New Jersey law, one must have served on active duty during the recognized dates listed at N.J.A.C. 5A:9-1.2(a) and meet the veteran's preference guidelines, and incurred a service-connected injury irrespective of length of service pursuant to N.J.A.C. 5A:9-1.2(b). A person is entitled to disabled veterans' preference if he or she:

1. Receives or is entitled to receive, under United States Department of Veterans Affairs guidelines, compensation for service-connected disability of 10 percent or more arising out of military or naval service during any of the periods in N.J.A.C. 5A:9-1.2 or who receives or is entitled to receive equivalent compensation for a service-connected disability which arises out of military or naval service as set forth in this chapter and who has submitted sufficient evidence of disability incurred in the line of duty;

2. Is the spouse of a person entitled to disabled veterans' preference if the disabled veteran:

i. Is not employed by any jurisdiction operating under New Jersey Statutes Title 11A; and

ii. Waives any right to preference for the duration of the spouse's employment;

3. Is the surviving, not remarried spouse of a person entitled to disabled veterans' preference; or

4. Is a parent or surviving spouse of a person who would have been entitled to veterans' preference under N.J.A.C. 5A:9-1.2, but who died while in service. The use of the preference by one such survivor shall suspend the right of any other so long as the first individual who uses the preference is employed by any jurisdiction operating under New Jersey Statutes Title 11A.

N.J. Admin. Code § 5A:9-1.3

NJ State Law P.L. 2007, Chapter 115.
https://www.nj.gov/csc/seekers/veterans/pdf/S2430Law.pdf

New Jersey Veterans are granted an absolute Veterans Preference when applying for civil service positions. This means that qualified Veterans who pass the exam are placed at the top of open competitive employment lists, surpassing non-Veterans regardless of their scores.

Disabled Veterans receive the highest preference, ranking above both Veterans and non-Veterans on open competitive employment lists.

Veterans can apply for preference as late as eight days before an open competitive employment list is issued.

To qualify for Veterans Preference, honorably discharged Veterans must have served on active duty in the U.S. Armed Forces during a New Jersey Statute Defined Qualifying War Era.

Required documents include:

- WD 53-55 or DD214
- Honorable Discharge Certificate
- New Jersey Civil Service Veterans Preference Claim Form
- Additional documents as needed

The unremarried surviving spouse of an eligible Veteran may also claim this preference.

Qualifying for Disabled Veterans Preference: Only one of the following is eligible for disabled Veteran hiring preference:

- Honorably discharged wartime Veterans receiving 10% or more disability compensation from the VA
- Spouse of an eligible disabled Veteran, provided the disabled Veteran is not employed in a civil service position. Disabled Veterans must waive all preference for the duration of their spouse's civil service employment.
- Unremarried surviving spouse of a deceased disabled Veteran

Unmarried surviving spouse of a service member who passed away while serving on active duty in the U.S. Armed Forces, or parent of a service member who died while serving on active duty in the U.S. Armed Forces, are eligible for these benefits.

Required documents include:

- WD 53-55 or DD214
- Honorable Discharge Certificate
- VA Benefit Summary Letter
- New Jersey Civil Service Veterans Preference Claim Form

Additional documents may be required.

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.
[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.