Reserve Organization of America

Law Review 26130

SOUTH CAROLINA: VETERANS' PREFERENCE

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RESERVE SERVICE LAW CENTER

EXECUTIVE SUMMARY

South Carolina gives preference for state jobs to honorably discharged veterans with active-duty service who meet the minimum training and experience requirements. State law follows federal veterans' preference rules wherever practicable.

Veterans' Preference:
South Carolina

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).

Federally, Veterans who are disabled or served on active duty in the U.S. Armed Forces during specific time periods or in military campaigns are entitled to preference over non-Veterans in hiring into the Federal civil service and during reductions in force. By Federal law, Veterans may be granted 5 or 10 points in any scoring process for examinations or interviews.

5-Point Hiring Preference:

- Five points are added to the examination score or rating of a Veteran who served during a war.
- Five points are added to the examination score or rating of a Veteran who served between April 28, 1952, and July 1, 1955.

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- Five points are added to the examination score or rating of a Veteran who served for more than 180 consecutive days, excluding training, after January 31, 1955, and before October 15, 1976.
- Five points are added to the examination score or rating of a Veteran who served during the Gulf War from August 2, 1990, to January 2, 1992.
- Five points are added to the examination score or rating of a Veteran who served for more than 180 consecutive days, excluding training, after September 11, 2001, and before August 31, 2010, the last day of Operation Iraqi Freedom.
- Five points are added to the examination score or rating of a Veteran who served in a campaign or expedition for which a campaign medal has been authorized. Any Armed Forces Expeditionary medal or campaign badge, including El Salvador, Lebanon, Grenada, Panama, Southwest Asia, Somalia, and Haiti, qualifies for preference.

10-Point Compensable Disability (CP) Preference:

- Ten points are added to the examination score or rating of a Veteran who served at any time and has a compensable service-connected disability rating of at least 10% but less than 30%.
- 10-Point Compensable Disability Preference (CPS): Ten points are added to the passing examination score or rating of a Veteran who served at any time and has a compensable service-connected disability rating of 30% or more.
- 10-Point Disability Preference (XP): Ten points are added to the passing examination score or rating of a Veteran who served at any time and has a present service-connected disability, is receiving compensation, disability retirement benefits, or pension from the military or the VA, but does not qualify as a CP or CPS. Alternatively, it is for a Veteran who received a Purple Heart.
- 10-Point Derived Preference (XP): Ten points are added to the passing examination score or rating of spouses, surviving spouses, or mothers of Veterans. Both a mother and a spouse (including a surviving spouse) may be entitled to preference based on the same Veteran's service if they both meet the requirements. However, neither may receive preference if the Veteran is living and is qualified for Federal employment.

Ten points are added to the passing examination score or rating of the spouse of a disabled Veteran who is disqualified for a federal position due to a service-connected disability that significantly impacts their usual occupation. This disqualification may be presumed when the Veteran is unemployed and meets one of the following criteria: (1) Is rated by appropriate military or VA authorities as 100% disabled and/or unemployable, or (2) Has retired, been separated, or resigned from a civil service position due to a service-connected disability, or (3) Has attempted to obtain a civil service position or a position similar to their usual occupation but failed to qualify due to a service-connected disability.

Preference may be granted in other circumstances, but any situation that falls short of these criteria warrants a more thorough analysis.

A campaign medal holder or Gulf War Veteran who initially enlisted after September 7, 1980, or began active duty on or after October 14, 1982, and has not completed 24 consecutive months of active duty, must serve for a minimum of 24 months or the entire duration of their active duty call or order. However, this requirement does not apply to 10-point preference eligible Veterans who were separated due to disability resulting from or aggravated in the line of duty, or to Veterans who were separated due to hardship or other reasons under Title 10 U.S.C. 1171 or 1173.

South Carolina State Employee Veterans Hiring Preference[1]:

§1-1-550. Honorably discharged veterans shall have preference for public employment

Honorably discharged members of the United States Armed Forces who are given employment preference by the United States Government, now and hereafter, shall be given preference for appointment and employment in every public department and upon all public works in this State insofar as such preference may be practicable; age, loss of limb or other physical impairment which does not in fact incapacitate shall not be deemed to disqualify them, provided they possess the capacity of skill and knowledge necessary to discharge the duties of the position involved. Provided, that any public department operating on a merit system shall give preferences similar to those given by the United States Government to eligible members discharged from the Armed Forces insofar as such preferences may be practicable.

South Carolina offers a hiring preference for veterans when recruiting for state employment. To be eligible, a veteran must have served on active duty in the U.S. Armed Forces (excluding training) and been discharged under honorable conditions. Additionally, they must meet the minimum training and experience requirements for the position.

In accordance with South Carolina Code of Laws 1-1-550, the South Carolina Military Department prioritizes veterans for appointments and employment. This preference is granted to honorably discharged former members of the United States Armed Forces who would be eligible for employment preference by the federal government. Furthermore, the applicant must meet all the minimum state and agency requirements specified in the job posting.

It's important to note that the loss of a limb or other physical impairment that doesn't impair the applicant's ability to perform the job duties won't be a disqualifying factor. However, the applicant is responsible for self-identifying as a "veteran" during the application process and providing documentation (e.g., DD 214 or NGB 22) to substantiate their discharge status.

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?

[1] 2023 South Carolina Code of Laws Title 1 Chapter 1 §1-1-550, Honorably discharged veterans shall have preference for public employment.

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.