Reserve Organization of America

Law Review 26131

# SOUTH DAKOTA: VETERANS' PREFERENCE

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RESERVE SERVICE LAW CENTER

**Veterans' Preference:**
*South Dakota*


## EXECUTIVE SUMMARY

South Dakota gives preference for state, county, and city jobs and promotions to qualified resident veterans, Guard and Reserve members who completed their obligation, and certain spouses. They are added to the interview list after the top candidates are identified.


**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).

**South Dakota State Employment Veterans' Hiring Preference[1]:**

**§33A-2-1. Veteran Defined**

For the purposes of all statutes relating to rights, privileges, ceremonial recognition, exemptions, and benefits (except a state bonus) of veterans and their dependents, the term, veteran, means any person who:

[1] 2023 South Dakota Codified Laws Title 33A Chapter 02 §33A-2-1, Veteran defined. 2023 South Dakota Codified Laws Title 3 Chapter 03 §3-3-1 – §3-3-8, Veterans Preference in Employment.

(1) Has served the full obligation for active duty, reserve, or National Guard service in the military, or received an early discharge for a medical condition, hardship, reduction in force, or at the convenience of the military; and

(2) Has been separated or discharged from such service honorably or under honorable conditions.

For purposes of this section, the term, benefits, includes veterans designation on a driver license or identification card, veterans license plates, veterans job preference, and burial benefits pursuant to §33A-5-2.

**§3-3-1 – §3-3-8. Veterans Preference in Employment**

https://law.justia.com/codes/south-dakota/title-3/chapter-03/

South Dakota offers Veterans' preference in hiring for state and local government jobs. Eligible applicants receive preference for appointments, employment, and promotions at all levels of government, including state, county, and city. However, applicants must possess the necessary skills and qualifications for the job they are applying for.

At the state level, eligible applicants are automatically added to the interview list after the top-qualified candidates have been identified. Preference is given in the following order:

- Disabled Veteran

- Spouse of a disabled Veteran

- Veteran

- Unremarried Surviving Spouse

To be eligible, applicants must meet the following requirements:

- U.S. Citizen

- Resident of South Dakota

- Veteran who served their full contract obligation in an active or reserve component of the U.S. Armed Forces and received an honorable discharge

- Spouse of a disabled Veteran who is unable to work due to their disability

- Unremarried Surviving Spouse of a Service member who died while serving in the U.S. Armed Forces

- Unremarried Surviving Spouse of a Veteran who died due to a service-connected illness or injury

Links to the South Dakota Department of Labor and Regulation Veteran's employment assistance eligibility page, Veterans' service brochure, and the job service office directory are included below:

**South Dakota DLR, Veterans' Employment Assistance Eligibility:**

https://dlr.sd.gov/veterans/specialized_services.aspx

**South Dakota DLR, Veterans' Services Brochure:**

https://dlr.sd.gov/veterans/publications/veterans_services_brochure.pdf

**South Dakota Job Service Office Directory:**

https://dlr.sd.gov/localoffices/location.aspx

South Dakota DLR Job Service Offices provide specialized services to job-seeking Veterans and eligible Spouses.

Some of these services include:

- Intensive services for disabled Veterans.

- In-person orientation sessions to introduce South Dakota DLR services and procedures.

- Job search information.

- Resume and cover letter assistance.

- Interview preparation.

- Eligibility determinations for special programs and services that employ and train Veterans.

- Information on applying for federal, state, county, and city employment.

- Employment information for newly separated or transitioning Service members.

- A military skills to civilian employment crosswalk.

- Direct referrals to job openings.

To receive these specialized services, Veterans must have served on federal active duty, received a discharge other than dishonorable, and meet one of the following service requirements:

- Served more than 180 days.

- Served at least one day and was discharged or released due to a service-connected disability.

- Reserve component Service member who served at least one day after being called to federal active duty during a time of war.

- Served at least one day and received a campaign medal.

- Discharged due to sole survivorship.

- Identified as having a significant barrier to employment.

Disabled Veterans qualify in the following circumstances:

- Entitled to compensation for a disability from the VA (or would be entitled if not receiving military retired pay).

- Entitled to compensation for a VA disability rating of 30% or more (or would be entitled if not receiving military retired pay).

Spouses and surviving spouses of the following Service members or Veterans are eligible:

- Veteran who died of a service-connected injury, illness, or disability.

- Active duty Service member serving in the U.S. Armed Forces who has been listed for 90 or more days as missing in action or a prisoner of war.

- Veteran who has a total and permanent service-connected disability.

Veterans receive preferential treatment at DLR local offices and are given priority access to DLR training programs.

**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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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
1 Constitution Ave. NE

[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.

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.