Reserve Organization of America

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VIRGINIA: VETERANS' PREFERENCE

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RESERVE SERVICE LAW CENTER

Veterans' Preference:
Virginia

EXECUTIVE SUMMARY

Virginia adds 5% to passing scores for honorably discharged veterans and currently serving Guard members, and 10% for veterans with a VA disability rating, in state hiring. Certain surviving spouses and children of members killed in the line of duty also receive 5%.

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).

Virginia State Employment Veterans Hiring Preference[1]:

§2.2-2903. Grade or rating increase and other preferences for veterans

A. In a manner consistent with federal and state law, if any veteran applies for employment with the Commonwealth that is based on the passing of any written examination, the veteran's grade or rating on such examination shall be increased by five percent. However, if the veteran has a service-connected disability rating fixed by the United

[1] 2011 Code of Virginia Title 2.2 Chapter 29 §2.2-2903, grade or rating increase and other preferences for veterans. Code of Virginia Title 40.1 Chapter 3 §40.1-27.2, Preference for veterans and spouses.

States Veterans Administration, his grade or rating shall be increased by 10 percent on such written examination. Such increases shall apply only if the veteran passes such examination.

B. In a manner consistent with federal and state law, if any veteran applies for employment with the Commonwealth that is not based on the passing of any examination, such veteran shall be given preference by the Commonwealth during the selection process, provided that such veteran meets all of the knowledge, skill, and ability requirements for the available position. Additional consideration shall also be given to veterans who have a service-connected disability rating fixed by the United States Veterans Administration. The Department of Human Resource Management shall develop and distribute guidelines as an addendum to the Hiring Policy for Executive Branch agencies to provide guidance to agencies to comply with the veterans' preference requirement.

C. If any veteran is denied employment with the Commonwealth, he shall be entitled, to the extent permitted by law, to request and inspect information regarding the reasons for such denial.

D. For purposes of this section, "veteran" means any person who has received an honorable discharge and has (i) provided more than 180 consecutive days of full-time, active-duty service in the armed forces of the United States or reserve components thereof, including the National Guard, or (ii) has a service-connected disability rating fixed by the United States Veterans Affairs.

§401.1-27.2. Preference for veterans and spouses

A. As used in this section, unless the context requires a different meaning:

"Disabled veteran" means a veteran who has been found by the U.S. Department of Veterans Affairs or by the retirement board of one of the several branches of the armed forces to have a compensable service-connected permanent and total disability.

"Veteran" has the same meaning ascribed to such term in § 2.2-2903.

B. An employer may grant preference in hiring and promotion to a veteran or the spouse of a disabled veteran.

C. Granting preference under subsection B does not violate any local or state equal employment opportunity law.

Virginia offers a hiring preference to eligible Veterans, National Guard service members, and certain family members when hiring for state employment.

When a scored test is used during the hiring process, applicants' passing scores are enhanced by additional percentage points. However, it's important to note that applicants must meet all the knowledge, skill, and ability requirements for the specific position.

Here's a breakdown of the percentage point distribution:

- Honorably discharged Veterans who served for 180 days on active duty in the U.S. Armed Forces receive an additional 5% bonus.

- Veterans with a service-connected disability rating from the VA receive an additional 10% bonus.

- Currently serving National Guard service members who have completed initial active duty training receive an additional 5% bonus.

- Surviving spouses and children (under the age of 27) of a service member who was killed in the line of duty receive an additional 5% bonus.

In cases where a scored metric isn't used for hiring, the hiring authority is obligated to find an equitable alternative that provides a Veterans hiring 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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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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