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Your Rights under The Uniformed Services Employment and Reemployment Rights Act

Reemployment Rights

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- you ensure that your employer receives advance written or verbal notice of your service;
- you have five years or less of cumulative service in the uniformed services while with that particular employer;
- you return to work or apply for reemployment in a timely manner after conclusion of service; and
- you have not been separated from service with a disqualifying discharge or under other than honorable conditions. If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

Right to be Free from Discrimination and Retaliation

If you:

- are a past or present member of the uniformed service;
- have applied for membership in the uniformed service; or
- are obligated to serve in the uniformed service; then an employer may not deny you:
 - initial employment;
 - reemployment;
 - retention in employment;
 - promotion; or

- any benefit of employment because of this status. In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

Health Insurance Protection

If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.

- Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

Enforcement

The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.

For assistance in filing a complaint, or for any other information on USERRA, contact VETS at 1-866-4-USA-DOL or visit its website at www.dol.gov/agencies/vets. An interactive online USERRA Advisor can be viewed at www.webapps.dol.gov/elaws/vets/userra.

If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, as applicable, for representation. You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

The rights listed here may vary depending on the circumstances. This notice was prepared by VETS, and may be viewed here:

www.dol.gov/agencies/vets/programs/userra/resources. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily place notices for employees. Office of Special Counsel USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

[Download USERRA "Know Your Rights" Poster \(PDF\)](#)

Who's Covered

USERRA protects civilian job rights and benefits for veterans and members of the active and Reserve components of the U.S. armed forces. USERRA provides that returning service-members must be promptly reemployed in the same position that they would have attained had they not been absent for military service, with the same seniority, status and pay, as well as other rights and benefits determined by seniority.

During FY 2013, VETS briefed more than 47,000 individuals on their job rights under USERRA. Since the September 11, 2001, terrorist attacks and the deployment of U.S. armed forces to Iraq and Afghanistan, VETS has provided USERRA information to more than one million individuals through briefings or individual technical assistance.

Individuals who believe their employment or reemployment rights under USERRA have been violated may file a complaint with VETS online or by submitting a signed complaint form. As part of the complaint review, a VETS investigator will collect and review evidence and will conduct witness interviews deemed necessary to obtain a resolution. Regardless of the outcome of the case, if a claimant is dissatisfied, he or she may request that the case be referred to the U.S. Department of Justice or, in the case of federal government employees, to the Office of Special Counsel, for further review and possible representation in U.S. District Court or before the U.S.

Merit Systems Protection Board. In FY 2013, VETS referred 83 cases to the Justice Department's Civil Rights Division and seven cases to the Office of Special Counsel.

Basic Provisions/Requirements

USERRA prohibits employment discrimination against a person on the basis of past military service, current military obligations, or intent to serve. An employer must not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment to a person on the basis of a past, present, or future service obligation. In addition, an employer must not retaliate against a person because of an action taken to enforce or exercise any USERRA right or for assisting in an USERRA investigation.

The pre-service employer must reemploy servicemembers returning from a period of service in the uniformed services if those servicemembers meet five criteria:

- The person must have been absent from a civilian job on account of service in the uniformed services;
- The person must have given advance notice to the employer that he or she was leaving the job for service in the uniformed services, unless such notice was precluded by military necessity or otherwise impossible or unreasonable;
- The cumulative period of military service with that employer must not have exceeded five years;
- The person must not have been released from service under dishonorable or other punitive conditions; and
- The person must have reported back to the civilian job in a timely manner or have submitted a timely application for reemployment unless timely reporting back or application was impossible or unreasonable.

USERRA establishes a five-year cumulative total of military service with a single employer, with certain exceptions allowed for situations such as call-ups during emergencies, reserve drills, and annually scheduled active duty for training. USERRA also allows an employee to complete an initial period of active duty that exceeds five years. Employers are required to provide to persons entitled to the rights and benefits under USERRA a notice of the rights, benefits, and obligations of such persons and such employers under USERRA.

Employee Rights

- [Am I covered by USERRA?](#)
- [What job entitlements or protections does USERRA offer?](#)
- [How does USERRA affect my benefits?](#)
- [If a problem arises, what are my remedies?](#)
- [What protections do I have against employment discrimination?](#)

USERRA provides that returning servicemembers are to be reemployed in the job that they would have attained had they not been absent for military service, (the "escalator" principle), with the same seniority, status and pay, as well as other rights and benefits determined by seniority. USERRA also requires that reasonable efforts (such as training or retraining) be made to enable returning servicemembers to qualify for reemployment. If the servicemember cannot qualify for the "escalator" position, he or she must be reemployed, if qualified, in any other position that is the nearest approximation to the escalator position and then to the pre-service position. USERRA also provides that while an individual is performing military service, he or she is deemed to be on a furlough or leave of absence and is entitled to the non-seniority rights accorded other similarly-situated individuals on non-military leaves of absence. The time limits for returning to work are as follows:

- Less than 31 days service: By the beginning of the first regularly scheduled work period after the end of the calendar day of duty, plus time required to return home safely and an eight hour rest period. If this is impossible or unreasonable, then as soon as possible.
- 31 to 180 days: The employee must apply for reemployment no later than 14 days after completion of military service. If this is impossible or unreasonable through no fault of the employee, then as soon as possible
- 181 days or more: The employee must apply for reemployment no later than 90 days after completion of military service.
- Service-connected injury or illness: Reporting or application deadlines are extended for up to two years for persons who are hospitalized or convalescing.

Health and pension plan coverage for servicemembers is also addressed by USERRA. Individuals performing military duty of more than 30 days may elect to continue employer sponsored health care for up to 24 months; however, they may be required to pay up to 102 percent of the full premium. For military service of less than 31 days, health care coverage is provided as if the servicemember had remained employed. USERRA pension protections apply to defined benefit plans and defined contribution plans as well as plans provided under federal or state laws

governing pension benefits for government employees. For purposes of pension plan participation, vesting, and accrual of benefits, USERRA treats military service as continuous service with the employer.

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