



A GUIDE TO THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

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This guide is intended for use by Active Duty service members, retirees, their families, and other personnel eligible for legal assistance from the Goodfellow AFB Legal Office. The information is general in nature and presented to assist those eligible persons in preparing for a legal assistance appointment with a professional in the legal office. Rights and responsibilities vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

Understanding Your Rights Under USERRA

Did you know? If you leave your civilian job for military service, you might be eligible to return to that job when your service is done. This protection comes from the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Who's Protected?

USERRA covers: All members of the uniformed services, including non-career National Guard and Reserve members, and active duty personnel.

Five Key Requirements for Reemployment

- **Civilian Job:**
 - The job you left must be a civilian position.
 - Applies to all employers, no matter how big or small.
 - Protects both part-time and full-time jobs, unless the job was very short-term.
- **Giving Notice:**
 - You or your commanding officer must inform your employer that you are leaving for military service.
 - Verbal notice is okay, but written notice with your orders is better.
 - Exceptions are rare, like military emergencies.
- **Limit of Service Time:**
 - Generally, you can serve up to 5 years and still have reemployment rights.
 - Some types of service don't count towards this limit, like certain training or service during emergencies.
- **Honorable Discharge:**
 - You must have an honorable discharge to be eligible.
- **Time Limits to Return to Work:**
 - Service of 1-30 days: Report back to work on the next scheduled shift after safe travel home and 8 hours of rest.
 - Service of 31-180 days: Apply for reemployment within 14 days.
 - Service of 181 days or more: Apply for reemployment within 90 days.
 - Hospitalization or Convalescence: You have up to 2 years to recover from service-connected injuries or illnesses.

What Are You Entitled To?

If you meet these requirements, you are entitled to:

- **Prompt Reemployment:** Return to your job quickly.
- **Seniority and Benefits:** The same seniority, status, and pay as if you never left.
- **Health Insurance:** Immediate reinstatement for you and your dependents, with no waiting periods or exclusions for pre-existing conditions (except those related to military service).
- **Non-Seniority Benefits:** Other benefits like life insurance or holiday pay if these are given to employees on non-military leaves.
- **Training or Retraining:** If needed to qualify for your job.
- **Disability Accommodation:** Reasonable efforts to accommodate any service-related disabilities.

- Protection from Discharge: Protection from being fired without cause for:
- 1 year if you served 181 days or more.
- 180 days if you served 31-180 days.
- Vacation: You can use any accrued vacation time, but your employer can't force you to use it for military service.

State Laws

- USERRA doesn't override state laws that offer more rights but does override those offering fewer rights.
- National Guardsmen called to duty by their state governor may be protected under state laws similar to USERRA.

Protection Against Discrimination

- USERRA prohibits discrimination in hiring, retention, promotions, or other employment benefits based on military service.
- It also protects anyone who helps enforce USERRA rights, even if they have no military connection.

NOTE: This guide is intended for general informational purposes only. It is advisable to periodically verify this information and consult with a legal professional for the most current and applicable advice. Due to the limited capacity of JAG attorneys, we can only provide basic guidance on these matters. We strongly recommend seeking out an attorney who specializes in employment law for more comprehensive assistance regarding USERRA. If you have any questions or need to schedule an appointment with a legal assistance attorney, please call the Legal Office at 325-654-3203. For more detailed information or updates, visit the U.S. Department of Labor's USERRA page.

Reference:

38 U.S.C. §§ 4301-4333

DoDI 1205.12

V.T.C.A., Government Code § 613

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