



OFFICE OF THE JUDGE ADVOCATE GENERAL **LEGAL ASSISTANCE POLICY DIVISION**



UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

The Uniformed Services Employment and Reemployment Rights Act (USERRA) (38 U.S.C. 4301-4333), was established to provide those who leave a civilian job for service in the uniformed services the right to return to the job, with accrued seniority, provided they meet the law's eligibility requirements. The USERRA applies to voluntary as well as involuntary service and in peacetime as well as wartime. The law applies to all civilian employers, including the Federal Government, state and local governments, and private employers, regardless of size. 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 and benefits accorded other similarly situated individuals on non-military leaves of absence.

Who is covered?

USERRA applies to individuals who perform voluntarily or involuntarily active duty, in the "uniformed services," which include the Army, Navy, Marine Corps, Air Force, Coast Guard, Space Force, and Public Health Service commissioned corps, as well as the reserve components of each of these services. Federal training or service in the Army National Guard and Air National Guard also gives rise to rights under USERRA.

USERRA Requirements:

An employer must reemploy uniformed servicemembers returning from a period of service if the member meets the below criteria:

1. The person must have been absent from a civilian job to serve in the uniformed service;
2. The person must have provided advance notice to the employer prior to departure for active service;
3. The cumulative period of military service with that employer must not exceed five years;
4. The person must not have been released from service under dishonorable or other punitive conditions;
5. 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 is impossible.

Employee Rights

USERRA provides that returning servicemembers are reemployed in the job that they would have attained had they not been absent for military service, with the same seniority, status and pay. See USERRA Employment Law Guide at <https://webapps.dol.gov/elaws/elg/userra.htm>.

Time limits for returning to work are:

1. **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.
2. **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.
3. **181 days or more:** The employee must apply for reemployment no later than 90 days after completion of military service.
4. **Service-connected injury or illness:** Reporting or application deadlines are extended for up to two years for persons who are hospitalized or convalescing.

Employers are required to provide to employees covered by USERRA a notice of the rights, benefits, and obligations of the employees and employers under the program, be sure to discuss your obligations under USERRA with your employer prior to the start of active service. For more information on USERRA, please checkout Veteran's Employment and Training Service, USERRA at <https://www.dol.gov/agencies/vets/programs/userra>.

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