



VETERAN'S RE-EMPLOYMENT RIGHTS

(38 U.S.C. 4301-4333)

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USERRA (Uniform Services Employment and Reemployment Rights Act)

Did you know that you may be eligible to return to the civilian job you held prior to military service? The 1994 Uniformed Services Employment and Reemployment Rights Act (USERRA) protects all uniformed members of the armed forces. This law requires your previous employer to rehire you if the following five requirements are met:

1. Civilian Job

The job that you previously held must be a **civilian** position, regardless of whether you worked for the government or a private company.

2. Giving Notice

When you leave your civilian job for military service, voluntarily or involuntarily, you must provide notice to your employer. Although notice may be verbal, it is recommended that you furnish a written notice to your employer, with a copy for your records. Be cautious in signing any documents your employer confronts you with concerning your departure. Seek advice first. You are **exempt** from the notice requirement if you entered active duty prior to December 12, 1994, or if circumstances arose that made advanced notice “impossible or unreasonable.”

3. Limit of Service Time

Your time in service must not exceed five years to be eligible for reemployment rights. While this five-year period is cumulative, it is not inflexible. For example, most periodic and special training in the Reserves or National Guard does not apply towards the five-year limit. Other exceptions include service during war or emergencies, or if your initial period of obligated service extends beyond five years.

4. Honorable Discharge

To be eligible for reemployment rights, you must have separated from active duty with either an Honorable or Under Honorable Conditions (General) service characterization.

5. Time Limit to Return to Civilian Job

You will be ineligible for reemployment rights if you procrastinate in reporting back or reapplying with your civilian employer. The time limit depends on the length of service or training.

1. You are allowed time to return safely to your residence along with an 8 day rest period before you return to your job for service or training periods of up to 30 days.
2. You are allowed 14 days to return to your job for service or training periods of 31 to 181 continuous days.
3. You are allowed 90 days to return to your job for service or training periods of 181 or more continuous days.
4. You may be eligible for a grace period of up to two years if you are recovering from a service-related injury.

Other Entitlements

1. If you do qualify for reemployment rights under the five requirements, you are entitled to specific considerations by your employer.
2. Your employer must offer you “prompt reinstatement.” In cases where your service or training is under 30 days, reinstatement should occur within days.
3. Your employer must offer you “accrued seniority.” Here, USERRA applies what is known as the “escalator principle.” You should be able to return to the seniority ladder as if you had never left. This principle also applies towards pension plans. If your employer does not have a seniority system, you must be rehired for your previous position, or at least a simple position.
4. Your employer must reinstate your “Health Insurance Coverage.” USERRA also allows you the option of continuing your health coverage during your service period. Depending on the length of service, you may be required to pay only the employee’s portion or the entire coverage.
5. Your employer must offer you “other non-seniority benefits” such as life insurance or holiday pay if they are provided to other employees on non-military leaves of absence.
6. Your employer must offer you “training or retraining and other accommodations.” The employer should make reasonable efforts to update your skills or accommodate any disability you sustained during military service.

7. Your employer must allow you “special protection against discharge” if you have over 30 days of continuous service. If your length of service is 31 to 180 continuous days, your protection period is 180 days. If your length of service is 181 or more continuous days, your protection period extends to one year. During the special protection period, your employer cannot terminate your employment unless he/she proves just cause for your discharge.

Exceptions

There are some circumstances under the USERRA in which your previous employer does not have to hire you back. If the employer can prove its circumstances have changed as to make reemployment impossible, unreasonable, or posing an undue hardship, or that employment was for a brief, nonrecurring period with no reasonable expectation of continuance, they do not have to rehire you.

Discrimination

USERRA also protects you against discrimination from your employer due to military training or service status; it protects you against reprisal should you take action to enforce your rights under USERRA.

If you have questions concerning your reemployment rights, contact the Veterans’ Employment and Training Service (VETS), U.S. Dept. of Labor at (866) 487-2365 or website: <http://www.dol.gov/vets/>

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