



U.S. Department of Veterans Affairs

Office of the Chief Human Capital Officer

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OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER (OCHCO) BULLETIN

SUBJECT: Uniformed Services Employment and Reemployment Rights Act (USERRA)

This OCHCO Bulletin provides Human Resources (HR) offices with information to immediately disseminate to all applicable employees regarding the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994.

USERRA protects the 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.

The employee/service member, manager/supervisor and the HR offices have responsibilities under USERRA.

Employee/Service Member Responsibilities

- (1) Give advanced oral or written notice of upcoming service unless doing so is impossible or precluded by circumstances beyond the employee's control;
- (2) Provide the supervisor and HR office an updated resume and a list of title 5 positions of interest or request consideration for hybrid/title 38 promotion opportunities, whichever is applicable, to ensure employees receive proper consideration if/when such positions are announced during their uniformed service-related absences;
- (3) Update official personnel folder;
- (4) As a courtesy, provide supervisor and servicing HR office an advanced copy of orders (if available), the military unit address, phone number, a point of contact, and a current mailing address;

(5) Meet eligibility requirements identified in 38 U.S.C. 4312; and

(6) Apply for reemployment and return to duty in accordance with time limits in 5 CFR 353.205.

b. Manager/Supervisor Responsibilities

(1) Notify employees of their USERRA rights and responsibilities;

(2) Request that employees provide an advanced schedule of military drills/assignments as early as possible or when notified of upcoming military service obligations;

(3) Request a courtesy copy of orders (if available), the military unit address, phone number, a point of contact, and an alternate mailing address. If orders are not available, employees absent more than 30 days must provide orders when reemployed;

(4) Determine if employees wish to receive consideration for positions or promotion opportunities during uniformed service-related absences. If so, request employees provide an updated resume and a list of such positions or written acknowledgement of interest in hybrid/title 38 promotion opportunities;

(5) Notify the servicing HR office, provide a courtesy copy of the orders (if available) along with the updated employee contact information, and submit request to place employee on Leave Without Pay (LWOP) or other authorized leave;

(6) Complete required USERRA training in accordance with Public Law 110-389, and related Office of Personnel Management (OPM) requirements (VA Talent Management System (TMS) Course 897931); and

(7) If employee is absent 91 days or more, provide performance expectations within the first 30 days of the employees return to duty and provide training to reintegrate the employee if necessary, after 90 days.

c. HR Office Responsibilities

(1) Notify employees of their USERRA rights and responsibilities, reemployment procedures, and time limits for reemployment;

(2) Display the "[Your Rights Under USERRA](#)" poster in visible areas throughout the facility;

(3) Inform employees that they may apply for jobs via USAJOBS during their absence;

(4) Request employees provide a courtesy copy of orders (if available), documentation of their requests for consideration, an updated resume and a list of positions for which they request consideration. Ensure that employees receive consideration if/when such positions are announced during a uniformed service-related absence;

(5) Determine employee's eligibility for reservist differential in accordance with 5 U.S.C. 5538 and take appropriate action;

(6) Advise employees regarding procedures for lump sum payment of annual leave in 5 CFR 550.1203(c) and VA Handbook 5007, Part IV, Chapter 3;

(7) Update employees' official personnel folders accordingly. Maintain active files for employees who are currently on leave in conjunction with military service but will return to duty. Transfer official personnel folders of separated employees to the National Personnel Records Center;

(8) Reemploy eligible employees with accrued seniority, status, and pay as soon as possible, but not later than 30 days after receiving their reemployment application;

(9) Provide Employee Assistance Program information in case the employee needs such services;

(10) Consider employees for any opportunity, incident or advantage of employment missed during periods of uniformed service in accordance with the provisions of 5 CFR 353.106; and

(11) Complete required USERRA training in accordance with Public Law 110-389, and related OPM requirements.

The OCHCO Recruitment and Placement Policy Service is responsible for reporting training as required under the Veterans' Benefits Improvement Act of 2008, Public Law (P.L.) 110-389, October 10, 2008 and reporting the data to OPM not later than September 30, 2020.

Public Law 110-389 requires that agencies and departments train their HR personnel on the provisions of USERRA in consultation with OPM. Consistent with this requirement, OPM has developed USERRA training and requires HR personnel to complete it or other approved USERRA training on an annual basis. The term, human resources personnel, is defined as HR specialists, HR assistants, individuals with HR liaison responsibilities, and supervisory/management officials, as well as those delegated to act on their behalf. VA TMS Course 897931 currently documents this mandatory training in the learning plans of all designated VA staff.

For more information on USERRA, please reference VA Handbook 5005, Part III, Chapter 6 and the Deployment & Reintegration Resources webpage at <https://www.vaforvets.va.gov/vaforvets/va-employees/reintegration/Pages/Deployment-and-Reintegration-Resources.asp>.

USERRA Frequently Asked Questions (FAQ): <https://esgr.mil/USERRA/Frequently-Asked-Questions>

Employees should contact their local HR office with questions.

Issued by: VA/OCHCO/Recruitment and Placement Policy Service