A Non-Technical Resource Guide to the Uniformed Services Employment and Reemployment Rights Act (USERRA)

The U.S. Department of Labor
Veterans' employment and Training Service

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Introduction

The Department of Labor's Veterans' Employment and Training Service provides this guide to enhance the public's access to information about the application of the Uniformed Services Employment and Reemployment Rights Act (USERRA) in various circumstances. Aspects of the law may change over time. Every effort will be made to keep the information provided up-to-date.

USERRA applies to virtually all employers, including the Federal Government. While the information presented herein applies primarily to private employers, there are parallel provisions in the statute that apply to Federal employers. Specific questions should be addressed to the State director of the Veterans' Employment and Training Service listed in the government section of the telephone directory under U.S. Department of Labor.

NOTE: Public Law 108-454, Veterans Benefits Improvement Act of 2004 requires employers to provide to persons entitled to the rights and benefits under the Uniformed Services Employment and Reemployment Rights Act (USERRA), a notice of the rights, benefits and obligations of such persons and such employers under USERRA. Employers may provide the notice by posting "Your Rights Under USERRA" where employees notices are customarily placed. However, employers are free to provide the notice to employees in other ways that will minimize costs while ensuring that the full text of the notice is provided (e.g., by handing or mailing out the notice, or distributing the notice via electronic mail). To obtain a copy of "Your Rights Under USERRA", or if you have questions regarding USERRA, contact VETS at 1-866-4-USA-DOL or visit the website at: www.dol.gov/vets.

Veterans with questions about their employment right under USERRA or who need assistance in filing a claim under USERRA should go to the online USERRA guide at: www.dol.gov/elaws/userra.htm, or call the Compliance Assistance hotline at 1-866-4-USA-DOL.

Disclaimer

This user's guide is intended to be a non-technical resource for informational purposes only. Its contents are not legally binding nor should it be considered as a substitute for the language of the actual statute.

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Employment and Reemployment Rights

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), enacted October 13, 1994 (Title 38 U.S. Code, Chapter 43, Sections 4301 - 4334, Public Law 103 - 353), as amended, significantly strengthens and expands the employment and reemployment rights of all uniformed service members.

Who's eligible for reemployment?

"Service in the uniformed services" and "uniformed services" defined - (38 U.S.C. Section 4303 (13 & 16)

Reemployment rights extend to persons who have been absent from a position of employment because of ""service in the uniformed services." "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service, including:

- Active duty
- Active duty for training
- Initial active duty for training
- Inactive duty training
- Full-time National Guard duty
- Absence from work for an examination to determine a person's fitness for any of the above types of duty
- Funeral honors duty performed by National Guard or reserve members
- Duty performed by intermittent employees of the National Disaster Medical System (NDMS), which is part of the Department of Homeland Security - Emergency Preparedness and Response Directorate (FEMA), when activated for a public health emergency, and approved training to prepare for such service (added by Pub. L. 107-188, June 2002). See Title 42, U.S. Code, Section 300hh-11(e).

The "uniformed services" consist of the following:

- Army, Navy, Marine Corps, Air Force, or Coast Guard.
- Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve.
- Army National Guard or Air National Guard.
- Commissioned Corps of the Public Health Service.
- Any other category of persons designated by the President in time of war or emergency.

"Brief Nonrecurrent" positions (Section 4312(d)(1)(C))

The law provides an exemption from employer reemployment obligations if the employee's pre-service position of employment "is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period."

Advance Notice (Section 4312(a)(1))

The law requires all employees to provide their employers with advance notice of military service.

Notice may be either written or oral. It may be provided by the employee or by an appropriate officer of the branch of the military in which the employee will be serving. However, no notice is required if:

- Military necessity prevents the giving of notice; or
- The giving of notice is otherwise impossible or unreasonable.

Duration of Service (Section 4312(c))

The cumulative length of service that causes a person's absence from a position of employment with a given employer may not exceed five years, subject to a number of exceptions set forth below.

Most types of service will be cumulatively counted in the computation of the five-year period.

Exceptions. Eight categories of service are exempt from the five-year limitation. These include:

(1) **Service required beyond five years to complete an**

initial period of obligated service (Section 4312(c)(1)). Some military specialties, such as the Navy's nuclear power program, require initial active service obligations beyond five years.

(2) **Service from which a person, through no fault of the person, is unable to obtain a release within the five-year limit (Section 4312(c)(2)).** For example, the five-year limit will not be applied to members of the Navy or Marine Corps whose obligated service dates expire while they are at sea.

Nor will it be applied when service members are involuntarily retained on active duty beyond the expiration of their obligated service date. This was the experience of some persons who served in Operations Desert Shield and Storm.

(3) **Required training for reservists and National Guard members (Section 4312(c)(3)).** The two-week annual training sessions and monthly weekend drills mandated by statute for reservists and National Guard members are exempt from the five-year limitation. Also excluded are additional training requirements certified in writing by the Secretary of the service concerned to be necessary for individual professional development.

(4) **Service under an involuntary order to, or to be retained on, active duty during domestic emergency or national security related situations (Section 4312(c)(4)(A)).**

(5) **Service under an order to, or to remain on, active duty (other than for training) because of a war or national emergency declared by the President or Congress (Section 4312(c)(4)(B)).** This category includes service not only by persons involuntarily ordered to active duty, but also service by volunteers who receive orders to active duty.

(6) **Active duty (other than for training) by volunteers supporting "operational missions" for which Selected Reservists have been ordered to active duty without their consent (Section 4312(c)(4)(c)).** Such operational missions involve circumstances other than war or national emergency for which, under presidential authorization, members of the Selected Reserve may be involuntarily ordered to active duty under Title 10, U.S.C. Section 12304. The U.S.

military involvement in Afghanistan and Iraq are two examples of such an operational mission.

This sixth exemption for the five-year limitation covers persons who are called to active duty after volunteering to support operational missions. Persons involuntarily ordered to active duty for operational missions would be covered by the fourth exemption, above.

(7) **Service by volunteers who are ordered to active duty in support of a "critical mission or requirement" in times other than war or national emergency and when no involuntary call up is in effect (Section 4312(c)(4)(D)).** The Secretaries of the various military branches each have authority to designate a military operation as a critical mission or requirement.

(8) **Federal service by members of the National Guard called into action by the President to suppress an insurrection, repel an invasion, or to execute the laws of the United States (Section 4312(c)(4)(E)).**

<u>Disqualifying service</u> (Section 4304)

When would service be disqualifying? The statute lists four circumstances:

(1) Separation from the service with a dishonorable or bad conduct discharge.

(2) Separation from the service under other than honorable conditions. Regulations for each military branch specify when separation from the service would be considered "other than honorable."

(3) Dismissal of a commissioned officer in certain situations involving a court martial or by order of the President in time of war **(Section 1161(a) of Title 10).**

(4) Dropping an individual from the rolls when the individual has been absent without authority for more than three months or is imprisoned by a civilian court **(Section 1161(b)of Title 10).**

<u>Reporting back to work</u> (Section 4312(e))

Time limits for returning to work depend, with the exception of fitness-for-service examinations, on the duration of a person's military service.

Service of 1 to 30 days. The person must report to his or her employer by the beginning of the first regularly scheduled work period that begins on the next calendar day following completion of service, after allowance for safe travel home from the military duty location and an 8-hour rest period. For example, an employer cannot require a service member who returns home at 10:00 p.m. to report to work at 12:30 a.m. that night. But the employer can require the employee to report for the 6:00 a.m. shift the next morning.

If, due to no fault of the employee, timely reporting back to work would be impossible or unreasonable, the employee must report back to work as soon as possible.

Fitness Exam. The time limit for reporting back to work for a person who is absent from work in order to take a fitness-for-service examination is the same as the one above for persons who are absent for 1 to 30 days. This period will apply regardless of the length of the person's absence.

Service of 31 to 180 days. An application for reemployment must be submitted no later than 14 days after completion of a person's service. If submission of a timely application is impossible or unreasonable through no fault of the person, the application must be submitted as soon as possible.

Service of 181 or more days. An application for reemployment must be submitted no later than 90 days after completion of a person's military service.

Disability incurred or aggravated. The reporting or application deadlines are extended for up to two years for persons who are hospitalized or convalescing because of a disability incurred or aggravated during the period of military service.

The two-year period will be extended by the minimum time required to accommodate a circumstance beyond an individual's control that would make reporting within the two-year period impossible or unreasonable.

Unexcused delay. Are a person's reemployment rights automatically forfeited if the person fails to report to work or to apply for reemployment within the required time limits? No. But the person will then be subject to the employer's rules governing unexcused absences.

Documentation upon return (Section 4312(f))

An employer has the right to request that a person who is absent for a period of service of 31 days or more provide documentation

showing that:

- the person's application for reemployment is timely;
- the person has not exceeded the five-year service limitation; and
- the person's separation from service was other than disqualifying under **Section 4304.**

Unavailable documentation . Section: 4312(f)(3)(A). If a person does not provide satisfactory documentation because it's not readily available or doesn't exist, the employer still must promptly reemploy the person. However, if, after reemploying the person, documentation becomes available that shows one or more of the reemployment requirements were not met, the employer may terminate the person. The termination would be effective as of that moment. It would not operate retroactively.
Pension contributions. Section 4312(f)(3)(B). Pursuant to **Section 4318**, if a person has been absent for military service for 91 or more days, an employer may delay making retroactive pension contributions until the person submits satisfactory documentation. However, contributions will still have to be made for persons who are absent for 90 or fewer days.

How to place eligible persons in a job

Length of service -- Section 4313(a)

Except with respect to persons who have a disability incurred in or aggravated by military service, the position into which a person is reinstated is based on the length of a person's military service.

1 to 90 days. Section 4313(a)(1)(A) & (B). A person whose military service lasted 1 to 90 days must be "promptly reemployed" in the following order of priority:

(1) **(Section 4313(a)(1)(A))** in the job the person would have held had the person remained continuously employed, so long as the person is qualified for the job or can become qualified after reasonable efforts by the employer to qualify the person; or, **(B)** in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

(2) if the employee cannot become qualified for either position described above (other than for a disability incurred in or aggravated by the military service) even after reasonable employer efforts, the person is to be reemployed in a position that is the nearest approximation to the positions described above (in that order) which the person is able to perform, with full seniority. **(Section 4313(a)(4))**

With respect to the first two positions, employers do not have the option of offering other jobs of equivalent seniority, status, and pay.

91 or more days. Section 4313(a)(2). The law requires employers to promptly reemploy persons returning from military service of 91 or more days in the following order of priority:

(1) **Section 4313(a)(2)(A).** In the job the person would have held had the person remained continuously employed, or a position of like seniority status and pay, so long as the person is qualified for the job or can become qualified after reasonable efforts by the employer to qualify the person; or, **(B)** in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status, and pay the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

(2) **Section 4313(a)(4).** If the employee cannot become qualified for the position either in (A) or (B) above: in any other position that most nearly approximates the above positions (in that order) the duties of which the employee is qualified to perform, with full seniority.

"Escalator" position . The reemployment position with the highest priority in the reemployment schemes reflects the "escalator" principle that has been a key concept in federal veterans' reemployment legislation. The escalator principle requires that each returning service member actually step back onto the seniority "escalator" at the point the person would have occupied if the person had remained continuously employed.

The position may not necessarily be the same job the person previously held. For instance, if the person would have been promoted with reasonable certainty had the person not been absent, the person would be entitled to that promotion upon

reinstatement. On the other hand, the position could be at a lower level than the one previously held, it could be a different job, or it could conceivably be in layoff status.

Qualification efforts. Employers must make reasonable efforts to qualify returning service members who are not qualified for reemployment positions that they otherwise would be entitled to hold for reasons other than a disability incurred or aggravated by military service.

Employers must provide refresher training, and any training necessary to update a returning employee's skills in situation where the employee is no longer qualified due to technological advances. Training will not be required if it is an undue hardship for the employer, as discussed below.

If reasonable efforts fail to qualify a person for the first and second reemployment positions in the above schemes, the person must be placed in a position of equivalent or nearest approximation of status and pay that the person is qualified to perform (the third reemployment position in the above schemes).

"Prompt" reemployment. Section 4313(a). The law specifies that returning service members be "promptly reemployed." What is prompt will depend on the circumstances of each individual case. Reinstatement after weekend National Guard duty will generally be the next regularly scheduled working day. On the other hand, reinstatement following five years on active duty might require giving notice to an incumbent employee who has occupied the service member's position and who might possibly have to vacate that position.

Disabilities incurred or aggravated while in Military Service Section 4313(a)(3).

The following three-part reemployment scheme is required for persons with disabilities incurred or aggravated while in Military Service:

(1) The employer must make reasonable efforts to accommodate a person's disability so that the person can perform the position that person would have held if the person had remained continuously employed.

(2) If, despite reasonable accommodation efforts, the person is not qualified for the position in (1) due to his or her disability, the person must be employed in a position of equivalent seniority, status, and pay, so long as the employee is qualified to perform the duties of the position or could become qualified to perform them with reasonable efforts by the employer.

(3) If the person does not become qualified for the position in either (1) or (2), the person must be employed in a position that, consistent with the circumstances of that person's case, most nearly approximates the position in (2) in terms of seniority, status, and pay.

The law covers all employers, regardless of size.

Conflicting reemployment claims Section 4313(b)(1) & (2)(A).

If two or more persons are entitled to reemployment in the same position, the following reemployment scheme applies:

- The person who first left the position has the superior right to it.
- The person without the superior right is entitled to employment with full seniority in any other position that provides similar status and pay in the order of priority under the reemployment scheme otherwise applicable to such person.

Changed circumstances Section 4312(d)(1)(A)).

Reemployment of a person is excused if an employer's circumstances have changed so much that reemployment of the person would be impossible or unreasonable. A reduction-in-force that would have included the person would be an example.

Undue hardship Section 4312(d)(1)(B).

Employers are excused from making efforts to qualify returning service members or from accommodating individuals with service-connected disabilities when doing so would be of such difficulty or expense as to cause "undue hardship."

Rights of reemployed persons

Seniority rights Section 4316(a)

Reemployed service members are entitled to the seniority and all rights and benefits based on seniority that they would have attained with reasonable certainty had they remained continuously employed.

A right or benefit is seniority-based if it is determined by or

accrues with length of service. On the other hand, a right or benefit is not seniority-based if it is compensation for work performed or is subject to a significant contingency.

Rights not based on seniority Section 4316(b).

Departing service members must be treated as if they are on a leave of absence. Consequently, while they are away they must be entitled to participate in any rights and benefits not based on seniority that are available to employees on nonmilitary leaves of absence, whether paid or unpaid. If there is a variation among different types of nonmilitary leaves of absence, the service member is entitled to the most favorable treatment so long as the nonmilitary leave is comparable. For example, a three-day bereavement leave is not comparable to a two-year period of active duty.

The returning employees shall be entitled not only to nonseniority rights and benefits available at the time they left for military service, but also those that became effective during their service.

Forfeiture of rights. Section 4316(b)(2)(A)(ii). If, prior to leaving for military service, an employee knowingly provides clear written notice of an intent not to return to work after military service, the employee waives entitlement to leave-of-absence rights and benefits not based on seniority.

At the time of providing the notice, the employee must be aware of the specific rights and benefits to be lost. If the employee lacks that awareness, or is otherwise coerced, the waiver will be ineffective.

Notices of intent not to return can waive only leave-of-absence rights and benefits. They cannot surrender other rights and benefits that a person would be entitled to under the law, particularly reemployment rights.

Funding of benefits. Section 4316(b)(4). Service members may be required to pay the employee cost, if any, of any funded benefit to the extent that other employees on leave of absence would be required to pay.

Pension/retirement plans

Pension plans, Section 4318, which are tied to seniority, are given separate, detailed treatment under the law. The law provides that:

- **Section 4318(a)(2)(A).** A reemployed person must be treated as not having incurred a break in service with the employer

maintaining a pension plan;

- **Section 4318(a)(2)(B)**. Military service must be considered service with an employer for vesting and benefit accrual purposes;

- **Section 4318(b)(1)**. The employer is liable for funding any resulting obligation; and

- **Section 4318(b)(2)**. The reemployed person is entitled to any accrued benefits from employee contributions only to the extent that the person repays the employee contributions.

Covered plan. Section 4318. A "pension plan" that must comply with the requirements of the reemployment law would be any plan that provides retirement income to employees until the termination of employment or later. Defined benefits plans, defined contribution plans, and profit sharing plans that are retirement plans are covered.

Multi-employer plans. Section 4318(b)(1). In a multi-employer defined contribution pension plan, the sponsor maintaining the plan may allocate the liability of the plan for pension benefits accrued by persons who are absent for military service. If no allocation or cost-sharing arrangement is provided, the full liability to make the retroactive contributions to the plan will be allocated to the last employer employing the person before the period of military service or, if that employer is no longer functional, to the overall plan.

Within 30 days after a person is reemployed, an employer who participates in a multi-employer plan must provide written notice to the plan administrator of the person's reemployment. **(4318(c))**

Employee contribution repayment period. Section 4318(b)(2). Repayment of employee contributions can be made over three times the period of military service but no longer than five years.

Calculation of contributions. Section 4318(b)(3)(A). For purposes of determining an employer's liability or an employee's contributions under a pension benefit plan, the employee's compensation during the period of his or her military service will be based on the rate of pay the employee would have received from the employer but for the absence during the period of service.

Section 4318(b)(3)(B). If the employee's compensation was not based on a fixed rate, or the determination of such rate is not

reasonably certain, the employee's compensation during the period of service is computed on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

Vacation pay Section 4316(d)

Service members must, at their request, be permitted to use any vacation that had accrued before the beginning of their military service instead of unpaid leave. However, service members cannot be forced to use vacation time for military service.

Health benefits Section 4317

The law provides for health plan continuation for persons who are absent from work to serve in the military and their dependents, even when their employers are not covered by COBRA. (Employers with fewer than 20 employees are exempt for COBRA.) **Section 4317(a)(1)**

If a person's health plan coverage (in connection with the person's position of employment) would terminate because of an absence due to military service, the person may elect to continue the health plan coverage for up to 24 months after the absence begins or for the period of service (plus the time allowed to apply for reemployment), whichever period is shorter. The person cannot be required to pay more than 102 percent of the full premium for the coverage. If the military service was for 30 or fewer days, the person cannot be required to pay more than the normal employee share of any premium.

Exclusions/waiting periods. Section 4317(b). Upon reemployment of the service member, a waiting period or exclusion cannot be imposed upon reinstatement of health plan coverage of any person whose coverage was terminated by reason of the military service (unless an exclusion or waiting period would have been imposed absent the military service). However, an exception applies to disabilities determined by the Secretary of Veterans' Affairs (VA) to be service-connected.

Multi-employer. Section 4317(a)(3). Liability for employer contributions and benefits under multi-employer plans is to be allocated by the plan sponsor in such manner as the plan sponsor provides. If the sponsor makes no provision for allocation, liability is to be allocated to the last employer employing the person before the person's military service or, if that employer is no longer functional, to the plans.

Protection from discharge

Under USERRA, a reemployed employee may not be discharged without cause as follows:

- **Section 4316(c)(1).** For one year after the date of reemployment if the person's period of military service was for more than 180 days.

- **Section 4316(c)(2).** For six months after the date of reemployment if the person's period of military service was for 31 to 180 days.

Persons who serve for 30 or fewer days are not protected from discharge without cause. However, they are protected from discrimination because of military service or obligation.

Protection from discrimination and retaliation

Discrimination -- Section 4311.

Section 4311(a). Employment discrimination because of past, current, or future military obligations is prohibited. The ban is broad, extending to most areas of employment, including:

- hiring;

- promotion;

- reemployment;

- termination; and

- benefits

Persons protected. Section 4311(a). The law protects from discrimination past members, current members, and persons who apply to be a member of any of the branches of the uniformed services or to perform service in the uniformed services.

Previously, only Reservists and National Guard members were protected from discrimination. Under USERRA, persons with past, current, or future obligations in all branches of the military or as intermittent employees in the National Disaster Medical System are also protected.

Standard/burden of proof. Section 4311(c). If an individual's past, present, or future connection with the service is a motivating factor in an employer's adverse employment action against that individual, the employer has committed a violation, unless the employer can prove that it would have taken the same action regardless of the individual's connection with the

service.

USERRA clarifies that liability is possible when service connection is just one of an employer's reasons for the action. To avoid liability, the employer must prove that a reason other than service connection would have been sufficient to justify its action.

Reprisals

Employers are prohibited from retaliating against anyone:

- who files a complaint under the law;
- who testifies, assists or otherwise participates in an investigation or proceeding under the law; or
- who exercises any right provided under the law.
- whether or not the person has performed military service **(section 4311(b))**.

How the law is enforced (Non-Federal employers)

Department of Labor

Regulations. Section 4331(a). The Secretary of Labor is empowered to issue regulations implementing the statute for States, local governments, and private employers. Previously, the Secretary lacked such authority.

Veterans' Employment and Training Service. Reemployment assistance is provided by the Veterans' Employment and Training Service (VETS) of the Department of Labor. **Section 4321.** VETS investigates complaints and, if meritorious, attempts to resolve them. Filing of complaints with VETS is optional. **Section 4322.**

Access to documents. Section 4326(a). The law gives VETS a right of access to examine and duplicate employer and employee documents that it considers relevant to an investigation. VETS also has the right of reasonable access to interview persons with information relevant to the investigation.

Subpoenas. Section 4326(b). The law authorizes VETS to subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation.

Government-assisted court actions

Section 4323(a)(1). Persons whose complaints are not successfully resolved by VETS may request that their complaints be submitted to the Attorney General for possible court action. If the Attorney General is satisfied that a complaint is meritorious, the Attorney General may file a court action on the complainant's behalf.

Private court actions Section 4323(a).

Individuals continue to have the option to privately file court actions. They may do so if they have chosen not to file a complaint with VETS, have chosen not to request that VETS refer their complaint to the Attorney General, or have been refused representation by the Attorney General.

Double damages. Section 4323(d)(1)(C). Award of back pay or lost benefits may be doubled in cases where violations of the law are found to be "willful." "Willful" is not defined in the law, but the law's legislative history indicates the same definition that the U.S. Supreme Court has adopted for cases under the Age Discrimination in Employment Act should be used. Under that definition, a violation is willful if the employer's conduct was knowingly or recklessly in disregard of the law.

Fees. Section 4323(h)(2). The law, at the court's discretion, allows for awards of attorney fees, expert witness fees, and other litigation expenses to successful plaintiffs who retain private counsel. Also, the law bans charging of court fees or costs against anyone who brings suit (4323(c)(2)(A)).

Declaratory judgments. Section 4323(f). Only persons claiming rights under the law may bring lawsuits. According to the law's legislative history, its purpose is to prevent employers, pension plans, or unions from filing actions for declaratory judgments to determine potential claims of employees.

Service Member Checklist

Service Member Obligations	Yes	No	Comments	Reference
1. Did the service member hold a job other than one that was brief, nonrecurring? (exception would be discrimination cases.)				Page 2
2. Did the service member notify the employer that he/she would be leaving the job for military training or service?				Page 2
3. Did the service member exceed the 5-year limitation limit on periods of service? (exclude exception identified in the law)				Page 2
4. Was the service member discharged under conditions other than disqualifying under section 4304?				Page 4
5. Did the service member make application or report back to the pre-service employer in a timely manner?				Page 4
6. When requested by the employer, did the service member provide readily available documentation showing eligibility for reemployment?				Page 5
7. Did the service member whose military leave exceeded 30 days elect to continue health insurance coverage? The employer is permitted to charge up to 102% of the entire premium in these cases.				Page 12

Employer Obligations

Employer Obligations:	Yes	No	Comments	Reference
1. Did the service member give advance notice of military service to the employer? (This notice can be written or verbal)				Page 2
2. Did the employer allow the service member a leave of absence? The employer cannot require that vacation or other personal leave be used.				Page 12
3. Upon timely application for reinstatement, did the employer timely reinstate the service member to his/her escalator position?				Page 5
4. Did the employer grant accrued seniority as if the returning service member had been continuously employed? This applies to the rights and benefits determined by seniority, including status, rate of pay, pension vesting, and credit for the period for pension benefit computations.				Page 9
5. Did the employer delay or attempt to defeat a reemployment rights obligation by demanding documentation that did not then exist or was not then readily available?				Page 5
6. Did the employer provide training or retraining and other accommodations to persons with service-connected disabilities. If a disability could not be accommodated after reasonable efforts by the employer, did the employer reemploy the person in some other position he/she was qualified to perform which is the "nearest approximation" of the position to which the person was otherwise entitled, in terms of status and pay, and with full seniority?				Page 8
7. Did the employer make reasonable efforts to train or otherwise qualify a returning service member for a position within the organization/company? If the person could not be qualified in a similar position, did the employer place the person in any other position of lesser status and pay which he/she was qualified to perform with full seniority?				Page 8
8. Did the employer grant the reemployed person pension plan benefits that accrued during military service, regardless of whether the plan was a defined benefit or defined contribution plan?				Page 10
9. Did the employer provide health coverage upon request of a service member? Upon the service member's election, did the employer continue coverage at the regular employee cost for service members whose leave was for less than 31 days?				Page 12

10. Did the employer discriminate in employment against or take adverse employment action against any person who assisted in the enforcement of a protection afforded any returning service member under this Statute?				Page 14
11. Did the employer in any way discriminate in employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of past or present membership, performance of service, application for service or obligation for service?				Page 13