

Uniformed Services Employment and Reemployment Rights Act (USERRA)

The Veterans Employment and Training Service (VETS) administers USERRA. VETS provides assistance to individuals who experience problems with their civilian employment related to their military service and provides information to employers about reemployment rights. Many RC members expect to return to your previous civilian employer in the same position without discrimination for your service. It is important that you are familiar with USERRA.

Here is how it works. Let's say for example you leave your job to join the military, or you are called up for active duty in the guard or reserves and need to leave your job. When you return, you may have reemployment rights to your job with that employer. Or another example might be that you are being discriminated against by an employer who is reluctant to hire you because of your military commitment. This law protects you in those circumstances. But it's more complicated than that. You need to know that USERRA clearly establishes that reemployment protection does not depend on the timing, frequency, duration, or nature of your service as long as the basic eligibility criteria are met.

Basic eligibility includes:

- character of service,
- initial obligation/duration of service,
- advance notice and
- timely reapplication.

And this applies not only to active duty, but also the guard and reserves.

The Employer Support for the Guard and Reserve, or ESGR, is a Department of Defense organization. They promote military service members as employees to employers. They also recognize outstanding employers who support military members.

ESGR has a nationwide program that will assist you if you have any employee/employer problems or misunderstandings as a result of your National Guard or Reserve membership. They can be reached via e-mail at ESGR.OMB@osd.mil.

USERRA also provides that returning service-members are reemployed in the job that they would have attained had they not been absent for military service. It's called the "escalator" principle, and they are hired back with the same seniority, status and pay, as well as other rights and benefits determined by seniority. The law requires that reasonable efforts (such as training or retraining) may be made to enable the returning service member to refresh or upgrade his or her skills to help them qualify for reemployment.

The period an individual has to make application for reemployment or report back to work after military service is based on time spent on military duty.

USERRA also requires that service members provide advance written or verbal notice to their employers for all military duty unless giving the employer notice is impossible, unreasonable, or precluded by military necessity.

USERRA also provides protection from discrimination. If you are a past or present member of the uniformed service, have applied for membership in the uniformed service, or are obligated to serve in the uniformed service, then an employer may not deny you initial employment, reemployment, retention in employment, promotion, or any benefit of employment because of this status.

But don't take this situation on by yourself. There is someone available to help you. The Department of Labor, Veterans' Employment and Training Service (VETS) provides assistance to all persons having claims under USERRA. USERRA protects civilian job rights and benefits for veterans and members of reserve components. The Employer Support for the Guard and Reserve is a great resource for more information and assistance. Their website is <http://esgr.gov>.

For more information, and contact the Veterans' Employment and Training Service office listed in the phone book in the United States Government under the Labor Department or visit: www.dol.gov/vets.