

Bulletin



May 2003, Volume II, Number 2

Office of Compliance
Congressional Accountability

The Office of Compliance Bulletin is a publication designed to provide timely information to employees of the Legislative Branch on current issues of concern.

Did You Know You May Be Protected by the Uniformed Services Employment and Reemployment Rights Act?

The Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") protects individuals who have performed or who are performing service in the uniformed services from discrimination in employment based on their uniformed service. The law also provides employees certain rights to reemployment and benefits upon the completion of duty. Congressional and Legislative Branch employees are protected by USERRA, as applied by Section 206 of the Congressional Accountability Act (CAA) of 1995.

Protection under USERRA is provided to those who are (or who have been) in the "uniformed services,"



US Navy Photo

which is defined very broadly by the law. This definition includes active or reserve service in the Army, Air Force, Navy, Marine Corps, and Coast Guard; service in

the National Guard, Air Guard, and the Public Health Service; as well as any other category designated by the President during time of war.

USERRA prohibits an employer from denying initial employment, reemployment, retention in

employment, promotion, or any benefit of employment to an eligible employee on the basis of that individual's participation in the uniformed services. This applies not only to an employee's current status in the uniformed services, but also to past service and future obligations as well.

USERRA also provides reemployment rights for an individual who is away from work for service in the uniformed services.



US Army Reserve Photo

The definition of "service" is extensive, covering virtually every type of duty. An eligible employee who performs active duty (both voluntary and involuntary), active duty for training, inactive duty training (weekend drills for Reservists), initial active duty for training, full time National or Air Guard duty, or who is

absent for an examination to determine fitness for duty (such as a physical) is entitled to reemployment upon his or her return to the job (with certain stipulations).

The right to reemployment applies to absences from the workplace of up to 5 years in length. The five year period can either be all at once, or a sum total of

all periods of active duty service. Weekend drills and the mandatory two weeks of active duty Guardsmen and Reservists must perform each year are not counted against the five year limit. Certain other categories of service are also exempted from this total.

Reemployment rights are contingent on the completion of service under honorable conditions.



US Navy Photo

Bad conduct discharges, a court martial, being dropped from the rolls for an absence without leave of more than three months, or any other form of less than honorable

discharge disqualify an individual for reemployment rights.

Here are some additional important notes about USERRA and the protections it provides:

- ★ To be eligible for reemployment, employees who will be absent from work due to uniformed service obligations must give advance notice of duty, unless notice is precluded by military necessity. Notice can be given either orally or in writing.
- ★ Reemployment rights require that an employee report back to work in a timely fashion once service is completed. The time allowed to report back to work depends on the length of service.
- ★ Employees who are absent for less than thirty days are entitled to the same health benefits, at

the same premium, that they receive while normally employed. For absences of longer than thirty days, employees continue to receive health benefits, but can be required to pay the full cost of the coverage.

- ★ Employers cannot require that an employee apply for a “military leave of absence” when called away on duty, nor can they require that the employee find his or her own replacement.
- ★ Employers cannot refuse to allow an employee to attend scheduled drills or annual training.
- ★ Employers are not required to continue to pay an employee who is away from the job for uniformed service, but can do so at their discretion.

This is by no means a complete description of all the rights, protections, and requirements of USERRA as applied to the Legislative Branch by the CAA. More detailed information regarding USERRA is available on the Office of Compliance web site, www.compliance.gov, including links to additional sources of information. You may also contact the Office of Compliance directly and speak with a counselor for more information or answers to specific questions.

This information does not constitute an official ruling of the Board of Directors and is intended for educational purposes only. For further information, please refer to the Congressional Accountability Act (2 U.S.C 1301 et seq.) and the regulations issued by the Board, or you may contact the Office of Compliance.

The Office of Compliance protects the safety, health, and workplace rights of employees of the Congress and the Legislative Branch. Established by the Congressional Accountability Act of 1995, the Office is an independent agency which provides an impartial dispute resolution process and educates employees and employing offices about their rights and responsibilities under the Act.



The Office of Compliance
110 2nd Street, SE Room LA-200
Washington, D.C. 20540-1999
202-724-9250/TDD 202-426-1912
Recorded Information Line: 202-724-9260
www.compliance.gov