



U.S. Department of Labor
Veterans Employment and Training Service



COVID-19 Impact

Uniformed Services Employment and Reemployment Rights

During these challenging times, our nation's Guardsmen and Reservists are answering the call to duty to protect the health and well-being of all Americans. We owe a duty to them to ensure full compliance with the employment and reemployment rights of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). The Veterans' Employment and Training Service (VETS) interprets and provides guidance on USERRA and investigates complaints filed under this law. VETS offers the following frequently asked questions and answers:

Does this factsheet create new USERRA rights and obligations in light of the novel Coronavirus disease (COVID-19)?

- No. The statute and regulations still govern USERRA rights and obligations. This factsheet addresses some scenarios that might arise from the application of USERRA in the context of this pandemic.

Does a member of the National Guard or Reserves who is called to active duty in response to the COVID-19 emergency have employment and reemployment protections under USERRA?

- Yes, if called to duty under federal authority. National Guard or Reserve duty under federal authority (such as Title 10 or Title 32) is covered by USERRA.
- **Yes, if a National Guard member serving on State Active Duty on or after January 5, 2021, if certain conditions apply (described below).**
- Historically, National Guard duty under state authority, commonly referred to as State Active Duty, has not been covered under USERRA. **However, pursuant to a recent statutory amendment which became effective on January 5, 2021, members of the National Guard serving on State Active Duty: a) for 14 days or more, b) in support of a national emergency declared by the President under the National Emergencies Act, or c) in support of a major disaster declared by the President under Section 401 of the Stafford Act, are now covered under USERRA. Note that (b) above includes (as of January 5, 2021) service in support of the national emergency concerning the COVID-19 outbreak declared by the President under the National Emergencies Act on March 13, 2020.**
- Members of the National Guard otherwise serving on State Active Duty may have similar employment protections under state law and should contact the appropriate state office for assistance.

- Note that the authority under which orders are issued can change, even in the course of a service member's performance of service.

Can a service member be furloughed or laid off upon return from uniformed service?

- Yes, if it is reasonably certain that he or she would have been furloughed or laid off had he or she not been absent for uniformed service.

May an employer delay a service member's reemployment out of concern that the service member's service in a COVID-19 affected area may have exposed him or her to COVID-19?

- No. If the employee satisfies the prerequisites to reemployment, the employee should be promptly reemployed in the job position that he or she would have attained with reasonable certainty if not for the absence due to uniformed service.
- Promptness generally depends on the length of time an individual was away, ranging from the next day after returning from duty, if the deployment was relatively short, to up to fourteen days in the case of a multi-year deployment.
- When reemploying a service member who might have been exposed to COVID-19, an employer must make reasonable efforts in order to qualify the returning employee for his or her proper reemployment position. This can include temporarily providing paid leave, remote work, or another position during a period of quarantine for an exposed reemployed service member or COVID-19 infected reemployed service member, before reemploying the individual into his or her proper reemployment position.

Where to Obtain Additional Information:

Important USERRA-related resources and compliance assistance materials for employees and employers are available through the Veterans' Employment and Training Service website at www.dol.gov/agencies/vets/programs/userra, which contains a USERRA elaws Advisor, FAQs, fact sheets, and links to the statute and implementing regulations. Our toll-free information and helpline, available 8:00 a.m. – 8:00 p.m. Eastern Time, is 1-866-4-USA-DOL (1-866-487- 2365). The Department of Defense's Employer Support of the Guard and Reserve also provides resources available at www.esgr.mil.