

FREE LEGAL SERVICES AVAILABLE
FOR ELIGIBLE LOW-INCOME VETERANS

Veterans' Rights: Employment Issues

Information Needed When Applying for Services from Legal Aid:
Current Household Income Information
Social Security Number
Documents related to your case (to the extent possible)



If the service member chooses to elect not to continue health coverage during military service, he/she has the right to be reinstated in the employer's health plan when he/she is reemployed, generally avoiding any waiting period or exclusions, except for service-connected illnesses or injuries.

Are there any employment preferences for veterans? What criteria do I have to meet as a veteran?

Yes. Veterans have preference in employment with State agencies or offices over non-veteran applicants for the same position. A veteran is also entitled to a preference in retaining employment if the public entity employing the individual reduces its workforce.

To qualify for veterans' employment preference, a veteran must have (i) served in the military for not less than 90 consecutive days during a national emergency or was discharged from military service for an established service-connected disability, (ii) been honorably discharged from military service, and (iii) be competent.

What about unemployment benefits for veterans?

If you are a servicemember separating from active duty you may qualify for unemployment compensation if you are unable to find a new job. The Unemployment Compensation for Ex-service members (UCX) program provides benefits for eligible ex-military personnel. The program is administered by the States as agents of the Federal government; therefore you will need to contact your state unemployment office in order to determine the amount and duration of your entitlement. You are eligible if: (i) you were on active duty with a branch of the U.S. military, and (ii) you must have been separated under honorable conditions. (Note: There is no payroll deduction from your wages for unemployment insurance protection. Benefits are paid for by the various branches of the military.)

Useful Resources for Veteran Employment Assistance:

Veterans Benefits Administration
Department of Veterans Affairs
Vocational Rehabilitation and Employment
(800) 827-1000
www.va.gov

United States Department of Labor
Veterans' Employment and Training Service
(866) 487-2365
www.dol.gov/vets

U.S. Office of Personnel Management
(202) 606-1800
www.opm.gov/veterans

National Veterans Foundation
Employment Center
(888) 777-4443
www.nvf.org

USAJOBS
<http://www.usajobs.opm.gov/>

Texas Veterans Commission
Veterans Employment Services
(800) 252-VETS (8387)
www.tvc.state.tx.us

Texas Workforce Commission
(800) 832-2829
www.twc.state.tx.us
www.workintexas.com (for job seekers)

Workforce Solutions
(888) 469-JOBS (5627)
www.wrksolutions.com

For direct legal services, contact your closest Legal Aid:

Legal Aid of NorthWest Texas
(800) 955-3959
www.lanwt.org

Lone Star Legal Aid
(800) 354-1889
www.lonestarlegal.org

Texas RioGrande Legal Aid
(888) 988-9996
www.trla.org

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Can I get my job back at the end of my military service?

Returning service members are entitled to be reemployed in the job that they would have had if they had not been absent for military service, with the same seniority, status and pay, and other rights determined by seniority. The employer must offer reasonable efforts such as training or retraining in order to enable the returning service member to qualify for the reemployment. Under Texas reemployment laws, when a veteran is released from military service, he/she is entitled to reemployment rights with his/her last employer, provided that his/her absence is not longer than four years.

What criteria do I have to meet in order to be reemployed?

According to federal law, Veterans have the right to be reemployed in their civilian job if: (i) the employer received advance written or verbal notice of the veteran's service, (ii) the veteran has five years or less of cumulative service in the uniformed service while with that particular employer, (iii) the veteran returns to work or applies for reemployment in the time allowed after conclusion of service, and (iv) the veteran has been honorably discharged from service.

Application for reemployment is based on time spent on military duty: (i) for service of less than 31 days, the service member must return at the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an eight-hour rest period, (ii) for service of more than 30 days but less than 181 days, the service member must submit an application within 14 days of release from service, and (iii) for service of more than 180 days, an application must be submitted within 90 days of release of service. Under Texas law, a veteran eligible for reemployment should apply for reemployment not later than 31 days (unless pay period), after dis-

charge or release from active military service (this is a shorter amount of time than federal law allows, which says that an application for reemployment must not be later than 90 days after discharge or release from active military service.)

What if my company is downsizing and therefore laying off many employees?

The question that comes into play if layoffs occur at your company while you're on active duty is whether you would have been affected by the layoff if you had not left your job for military service. If the answer is yes, your re-employment rights are unlikely to apply. USERRA does not entitle you to continued employment that you would not have been allowed even if your civilian career had not been interrupted by military service. The best way to determine what would have happened to your job is to look at what happened to other employees whose employment tenure and status were as similar to your own as possible. If their positions were eliminated during your service, it gives us a better barometer of establishing the status of your own job. Establishing this can be complicated, but it is your best option in determining if your USERRA rights hold up.

But what if I return from active duty and find that not only was I laid off, but also that the position I held no longer exists?

This situation provides a bit more room for your re-employment rights to take effect. It is possible that if you had not been on active duty, you would have been able to find a vacant position for which you were qualified. It is also possible that you would have been able to use your rights through seniority to displace another employee with less seniority whose position you were qualified for. If the layoffs at your company are not decided by seniority, you are entitled to re-employment unless your employer can establish that your employment would have been eliminated even if you had

not been called to active duty. If your division was laid off, it's likely that regardless of your service, your position would have been cut as well.

Even if you cannot prove that you wouldn't have been a casualty of the layoffs through the above possibilities and your position is abolished while you are away for service, you still are entitled to any severance package issued by your employer as if you had been continuously employed upon your return. If you sense a layoff is coming at your company, take the time to review the rights afforded to you through your service under USERRA. It's possible that your re-employment rights may come into play in protecting your position in these tough economic times.

I am disabled now. Is my employer required to make any accommodations for my disability?

For reemployment of disabled veterans, employers must make reasonable efforts to accommodate the disability, and service members recovering from an injury received during service, may have up to two years from the date of completion of service to return to their jobs or apply for reemployment. Under Texas law, if a veteran was a public employee prior to military service and cannot perform the duties of the position because of a disability sustained during the military service, the veteran is entitled to reemployment in a position that has like or nearest possible seniority, status and pay as the former position.

If I am deployed, am I still covered under my employer's health insurance plan?

Health coverage for active service members is available to those who leave their job to perform military service and coverage can be elected to continue with the existing employer-based health plan coverage for service members and dependents for up to 24 months while in the military.