TRANSITION ASSISTANCE PROGRAM WORKSHOP

Introduction from the Department of Labor

The Transition Assistance Program (TAP) Employment Workshop is intended to help individuals with their transition from active duty military back into civilian life. The men and women who serve in our armed forces, particularly now that the U.S. military has increased its presence in contingency operations around the world, put their lives on the line every day. For this reason, it is important that the government do all it can to help servicemen and women successfully transition to civilian life after service ends.

Unlike their full time active duty counterparts, however, the Reserves and National Guard members returning from active duty overseas who might opt for transition assistance do not always have the opportunity to participate in formal TAP employment workshops. To correct this, the Department of Labor has packaged its TAP Employment Workshop into 15 modules. This menu driven curriculum is designed to provide Reserve and National Guard units enhanced flexibility in offering these services to their members.

Workshops are conducted by professionally trained facilitators. The materials you receive are yours to keep. These should be referred to anytime during your transition process. If you need further assistance, check with your local veteran representatives located at your local state employment office or One-Stop Career Center. The personnel can directly assist you with your specific employment and transition needs.

We thank you for your dedicated service to our country and wish you and your family success in the years to come.
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INSTRUCTOR OUTLINE

Section 1: One Stop Career Centers

Suggested time: 30 minutes

Power Points

KEY POINTS:

• To make sure the participants know what a one stop career center is and some of the services offered.
• To make them aware of how and where to locate programs in their local area.

1. Ask the class how many of them have heard of a One Stop Career Center.

2. Tell them this is a service they can receive at no cost and there is a center close to them.

3. Use the power point slides to review the services available at a center.

4. Point out the web site in the resource section of job service locations.

*NOTE
Facilitator should review the list of services and add any others on the Power Point slides.
ONE STOP CAREER CENTERS

Objectives

Participants will be able to:

• Understand there are local programs in their community available to assist with a wide variety of employment issues
• Know what services these programs can offer you as a veteran
• Know how to locate the nearest one-stop center

What to Know

Every state and most communities have a Job Service office and many are called One-Stop Career Centers. These Center house several services in one location, including veteran representatives who are there to specifically help veterans find jobs and be a valuable resource for referral to many programs for veterans. These veteran representatives are the Local Veterans Employment Representative (LVER) and Disabled Veterans Outreach Program Specialist (DVOP) representative. LVER and DVOP staff have a wealth of information specific to veterans and can also provide a full range of employment related services.

The One Stop Center staff is able to provide numerous services to veterans and may have any or all of the following services available:

Job Search Assistance – Many one-stop centers offer classes on resume writing, interviewing and job search techniques.

Employment Referrals – Many employers call the one stop centers to list job openings and the staff have a working relationship with these employers and can help candidates get a job interview.

Skills Assessment – Personal interviewing and testing is available to determine specific job skills and preferences to help someone make informed career choices.

Computers with Internet Access – Available at no charge to the job seeker.
Telephones, Fax machines and Copy machines are also available for use at no charge to the job seeker.
Unemployment Assistance – Help in filing claims for unemployment insurance.

Labor Market Information – Staff in the one stop are knowledgeable on the local labor market and can give information on employment trends, wages, and employers.

Vocational Guidance – Staff assist in providing information and choices for help in making an informed career decision.

Education and Training Assistance – There are education and training programs available to individuals who qualify and the one stop staff can help determine who is eligible.

Work Study Opportunities – Most one stop centers hire work study students who can get practical work experience while they are attending school.

Credentialing – Often veterans have had the experience needed in a certain field, yet lack the required licensing or certification from the state. Veteran’s representatives can assist in certain occupations to help shorten or eliminate the time needed to acquire the necessary credentials.

State and National Job Banks – The internet has job listings by state and nationally and the one stop centers can assist in finding these valuable resources.

Child Care – Many centers have a list of child care providers and can help locate a local resource. Check with your job service to see what is available.

Transportation – Each center has different benefits and resources, some offer bus tokens or resources to help you get to interviews or work everyday.

Workforce Investment Act (WIA)
The goal of this program is to increase the employment, retention and earnings of participants. The one stop center staff can help determine who is qualified who this program.

Veterans’ Priority
Public Law 107-288, The Jobs for Veterans’ Act created a priority of service for veterans (and some spouses) “who otherwise meet the eligibility requirements for participation” in DOL training programs. Twenty DOL-funded workforce programs are covered by the section 38 USC Chapter 42, Section 4215, veterans’ priority.
The programs affected include, but are not limited to: the Workforce Investment Act (WIA), Adult and Dislocated Worker formula-funded program, Wagner-Peyser Employment Services, the Trade Act programs, National Emergency Grants, the Senior Community Service Employment Program (SCSEP), the Migrant and Seasonal Farmworker program, the Indian and Native American program, H-1B Technical Skills Training Grants, Job Corps, WIA Demonstration Projects, Youth Opportunity Grants, the WIA Youth formula-funded program, Labor Market Information Formula Grants, Pilots, Research and Development, and the Career One-Stop Electronic Tools and other Internet-based self-service tools operated by DOL grantees.

Individual guidance is provided for each affected ETA program. The law requires that the individual receiving priority must first meet the program’s existing eligibility requirements. Thus, for all programs, veterans must meet the program eligibility requirements in order to obtain priority of service.

Local programs are not required to change their allocations among services to reserve funds for veterans, but are required to ensure that eligible veteran workers are given priority over non-veterans for all available services.

**What to Do**

Visit the one-stop center located nearest you and obtain information on state specific services. Register to get help if you are unemployed or underemployed and ask to see a Veteran Representative if you have any questions about veteran specific resources.

Get to know what services are offered in your local One Stop Career center that will help you with training, education, or on the job training, and assist you with your transition back into the civilian world.

**Resources**

- [www.servicelocator.org](http://www.servicelocator.org) (find the one stop center nearest you)
- [www.careeronestop.org](http://www.careeronestop.org)
- [www.dol.gov/topic/training/onestop.htm](http://www.dol.gov/topic/training/onestop.htm)
- [http://nvti.cudenver.edu/training/orientation](http://nvti.cudenver.edu/training/orientation)
INSTRUCTOR OUTLINE

Section 2: Labor Market Information

Suggested time: 30 – 45 minutes

Power Points

Participant Objectives:
• Upon completing this topic the participant will be familiar with current National Labor Market trends.
• The participant will be aware of what LMI is and how it is beneficial to understand LMI on a local level.
• Participant will have knowledge of resources and how to research the LMI in their local area.

KEY POINTS:
• It is important to recognize the value of researching and understanding national and local labor market information.
• Labor markets change from external influences and it is important to keep updated for the short and long term projections of occupations or industries.

*NOTE
Facilitator will need to do research and fill in the information on Power Point slides for their area.

1. Give the definition of LMI.
2. Discuss how this information is gathered and for what purposes.
3. Brainstorm with them what sort of events or issues could change the labor market locally and nationally. (i.e. war on terrorism forever changed the role of security and, in fact, created a whole new department in government. Also, how Hurricane Katrina changed the businesses in New Orleans and the ripple effect this had on other industries).
4. Tell them because of the above, it is important to keep apprised of all issues that might affect the industry they have an interest in.
LABOR MARKET INFORMATION

Objectives
Participants will be able to:
- Be familiar with current National Labor Market Trends
- Analyze LMI for their local area
- Know the resources and how to research LMI in their local area

What to Know

What is Labor Market Information (LMI)

LMI is a wide array of employment related data on economic conditions and labor force characteristics, such as, population, education, income, occupation descriptions and employment conditions of a particular area that includes information about peoples jobs and employers.

LMI is a crucial component of career decision making and job search. It is important to try and obtain as much information as possible to make the best educated guess as to what job markets and occupations will be viable and valuable in the future. LMI is a process which requires research.

To make sound decisions a job seeker needs to obtain outlook data on a national and local level. The data includes occupation descriptions, education requirements, wages and employment trends. When researching national information one major resource is the Bureau of Labor Statistics. On a local level it includes state and local resources, such as, state economic outlooks, chamber of commerce, job projections and talking to people that are knowledgeable about trends at the local level.

What to Do

Get to know as much about your local labor market as you can, it will help you to understand where the economic strengths and weaknesses are in your community. When you are armed with knowledge you are better able to make decisions about your career, education and/or training. You can also get information on wages for occupations and industry in your local area.

Resources

www.careerstop.org/lmi/lmihome (national and local information from the Career One Stop)
www.bls.gov (national information from Bureau of Labor Statistics)
www.doleta.gov.almis (national and local information from Department of Labor, Employment and Training)
www.bls.gov/bls/ofolist.htm (state specific information from the Bureau of Labor Statistics)

WWW.DOL.GOV/ELAWS/EVENTS.HTM
INSTRUCTOR OUTLINE

Section 3: Homelessness

Suggested time: 30 - 45 minutes

Power Points

Participant Objectives:
• Participants will understand some of the issues that may lead to homelessness
• Participants will understand the potential risk factors of homelessness
• Participants will understand resources available both locally and nationally

KEY POINTS:
- Recent statistics show some individuals have become homeless shortly after being released from active duty and it is important to know there are resources to help.
- There are many factors that can lead to difficulties in readjusting to civilian life, it is important to recognize what is a normal reaction and when you need to seek professional help.

1. Discuss with the group the fact that unfortunately there are homeless veterans. They may see them and wonder how this happens. What if it happened to a friend of yours, or a buddy from your unit.
2. Refer participants to the page in the manual and discuss some of the statistics in relation to homeless veterans.
3. Ask if they know what might lead to homelessness or ask them to think of themselves in a situation where they might need help from someone outside of their normal group. Brainstorm what might be some causes.
4. Refer to the information on PTSD and discuss the normal reactions to being in combat. What are some symptoms they need to be aware of that suggests seeking help from the listed resources.
Additional Instructor Resources

Homeless and PTSD

The course of chronic PTSD usually involves periods of symptom increase followed by remission or decrease, although some individuals may experience symptoms that are unremitting and severe. Some older veterans, who report a lifetime of only mild symptoms, experience significant increases in symptoms following retirement, severe medical illness in themselves or their spouses, or reminders of their military service (VA National Center for PTSD, 2005).

An estimated 7.8% of Americans will experience PTSD at some point in their lives, with women (10.4%) twice as likely as men (5%) to develop PTSD. About 3.6 percent of U.S. adults aged 18 to 54 (5.2 million people) have PTSD during the course of a given year. This represents a small portion of those who have experienced at least one traumatic event; 60.7% of men and 51.2% of women reported at least one traumatic event. Approximately 30 percent of the men and women who have spent time in war zones experience PTSD. An additional 20 to 25 percent have had partial PTSD at some point in their lives. More than half of all male Vietnam veterans and almost half of all female Vietnam veterans have experienced “clinically serious stress reaction symptoms.”

PTSD has also been detected among veterans of the Gulf War, with some estimates running as high as 8 percent (VA National Center for PTSD, 2005).

PTSD is associated with the increased likelihood of co-occurring psychiatric disorders. In a large-scale study, 88 percent of men and 79 percent of women with PTSD met criteria for another psychiatric disorder. The co-occurring disorders most prevalent for men with PTSD were alcohol abuse or dependence (51.9%), major depressive episodes (47.9%), conduct disorders (43.3%), and drug abuse and dependence (34.5%). The disorders most frequently associated with PTSD among women were major depressive disorders (48.5%), simple phobias (29%), social phobias (28.4%), and finally 27.9 percent with alcohol abuse/dependence. Some of the most common psychosocial functioning problems experienced by Vietnam veterans with PTSD included problems in family and other interpersonal relationships, problems with employment, and involvement with the criminal justice system (VA National Center for PTSD, 2005).

PTSD is treated by a variety of forms of psychotherapy (talk therapy) and drug treatment. There is no definitive treatment, but some treatments appear to be promising such as, cognitive-behavioral therapy, group therapy, and exposure therapy. There are a variety of drug treatments that help ease associated symptoms of depression, anxiety and help with sleep.
HOMELINESS

Objectives
Participants will be able to:
- Identify national and local resources available to homeless individuals
- Understand some issues that could lead to homelessness and/or accompany homeless

What to know

The term “homeless or homeless individual” includes persons who lack a fixed, regular, and adequate nighttime residence. It includes persons whose primary nighttime residence is either a supervised public or private shelter designed to provide temporary living accommodations; an institution that provides a temporary residence for individuals intended to be institutionalized; or a private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings (VETS, 2006). Veterans Affairs estimates as many as 200,000 veterans are homeless on any given night, and more than twice as many experience homelessness over the course of a year (US Department of Veterans Affairs, 2005).

Due to the increase of Guard and Reservists in the realm of combat there have been many related complications; reemployment rights, unemployment and homelessness are just a few of the issues. Although homelessness can be viewed as an “end factor,” complications commonly associated with mental health issues (i.e. Post Traumatic Stress Disorder), disabilities, lack of education and training, and addictions can lead to homelessness, and therefore need more awareness and understanding. Long term unemployment and/or underemployment can also lead to homelessness.

Possible Causes

Male veterans are twice as likely to become homeless, and female veterans are four times more likely to be homeless compared with women who are not veterans. A large number live with post traumatic stress disorders and addictions acquired during or exacerbated by their military service (VA, 2005). According to the National Coalition for the Homeless; 45% of homeless veterans suffer from mental illness, and half have substance abuse problems.
One disorder veterans may experience after returning from a combat experience is Posttraumatic Stress Disorder (PTSD). PTSD is a psychiatric disorder that can occur following the experience or witnessing of life-threatening events, such as, military combat, natural disasters, terrorist incidents, serious accidents, or violent personal assaults like rape. Most survivors of trauma return to normal given time. However, some people will have stress reactions that do not go away on their own, or may even get worse over time, these individuals may develop PTSD. People who suffer from PTSD often relive their experience through nightmares and flashbacks, they have difficulty sleeping, and feel detached or estranged. These symptoms can be severe enough and last long enough to significantly impair the person’s daily life (VA National Center for PTSD, 2005).

PTSD is marked by clear biological changes as well as psychological symptoms. PTSD is complicated by the fact that it frequently occurs in conjunction with related disorders such as depression, substance abuse, problems of memory and cognition, and other problems of physical and mental health. The disorder is also associated with impairment of the person’s ability to function in social or family life, including occupational instability, marital problems and divorces, family discord, and difficulties in parenting (VA National Center for PTSD, 2005).

What to know

Know when you or a colleague needs help and where to get this help, some of the resources are listed below.

If you are concerned about unemployment, underemployment and or housing issues:

- Visit a One Stop Career Center they can assist you in finding employment or better employment. (See resources section or look in your local phone book blue pages under State Government for state employment or job service offices).
- Visit with DVOP and LVER representatives who will be able to refer you to specific programs in your local area.
- Participation in pre-separation counseling
- Participation in the Transition Assistance Program (TAP) employment workshop

If you need assistance for mental health issues some resources would be:

- To seek early assistance for mental health and substance abuse issues
- Attend a VA briefing regarding benefits
• Involve close family members in the TAP and VA briefings, allowing them to understand and recognize mental health and substance abuse symptoms that can lead to anti-social behavior

Most people who are exposed to a traumatic, stressful event, experience some of the symptoms of PTSD in the days and weeks following exposure. Available data suggests approximately 8% of men and 20% of women go on to develop PTSD and roughly 30% of these individuals develop a chronic form that persists throughout their lifetimes.

If you need assistance with possible PTSD symptoms:

• Visit a Veterans’ Center in your local area
• Talk to someone from the VA
• Utilize your local Veteran Service Organizations for help and referrals

Resources

[www.dol.gov/vets/programs/fact/homelessveterans](http://www.dol.gov/vets/programs/fact/homelessveterans)
Homeless Veterans Reintegration Program (HVRP) a competitive grant program administered by the Veterans Employment and Training Services of the Department of Labor.

[www.nchv.org](http://www.nchv.org)
National Coalition for Homeless Veterans provides resources and a technical assistance center for a national network of community based service providers and local, state and federal agencies that provide emergency and supportive housing, food, health services, job training and placement assistance, legal aid and case management support for homeless veterans.

[http://www1.va.gov/vso](http://www1.va.gov/vso)
There are many veteran service organizations relating to a wide variety of needs and interests. This directory of service organizations will give you a place to start looking for groups that might best fit your situation.

[www.national homeles org./publications/facts.html](http://www.national homeles org./publications/facts.html) (National Coalition for the Homeless)

[www.va.gov/homelessnes](http://www.va.gov/homelessnes)

INSTRUCTOR OUTLINE

Section 4: Self Employment

Suggested time: 30 minutes
Power points

Participant Objectives:
• Upon completion of this topic participants will have a basic knowledge of the Small Business Administration programs and resources to assist veterans in starting and growing a small business.

KEY POINTS:
• There are many special resources and programs available to assist the veteran owned small business and can be very valuable to help a business be successful.

• Self employment is a viable option for many exiting the military, however, research up front can make the difference between success and failure.

1. Ask how many are considering starting a business.

2. Brainstorm the pro’s and con’s of owning your own business. (Why people want to be self employed and what are the issues to consider).

3. Ask what is the most important component to make a business successful? Stress the importance of having a business plan.

4. Refer to the workbook and indicate some of the helpful websites available to them in this endeavor.

5. Highlight the loans available to individuals who are already self employed and get called up for active duty.

*NOTE
You can obtain a sample Business Plan from the sba.gov website.
SELF EMPLOYMENT

Objectives
Participants will be able to:

• To understand the pros and con’s of starting your own business
• To know where to find resources to help plan and execute your small business ideas
• To know where and how to get funding to start a small business

What to know

Per the U.S. Small Business Administration (SBA), there are 23 million small businesses in the United States, and veterans own approximately four million. Small businesses, employ more than 50 percent of the private work force and generate more than half of the nation’s gross domestic product.

SBA is a vital link in your efforts to start your own business. SBA provides assistance, valuable information, relevant publications, training, counseling, and workshops. SBA contact information is available through the transition website.

To ensure veterans receive the help and attention they deserve, the SBA established the Office of Veterans Affairs with field offices located in all 50 states, the Commonwealth of Puerto Rico, the District of Columbia, the U.S. Virgin Islands and Guam. Each office has a Veterans Business Development Specialist dedicated to help guide you through the process and to advise on lending programs.

Starting and managing a business takes motivation, desire, talent, and financial equipment. It also takes research and planning. To increase your chances for success, you must first explore and evaluate your business and personal goals and build a comprehensive and well-thought-out business plan that will help you reach these goals.

You must also determine the best business course to take, i.e. start your own new business, buy an existing business or become a franchisee by purchasing a franchise outlet. Research and plan on what is best for you!

Small Business Assistance for Veterans

There’s a wealth of information and resources readily available for U.S. service members wanting to start or grow small businesses after leaving active duty. Through its Office of Veterans Business Development, The U.S. Small Business
Administration and its resource partners can assist transitioning service members nationwide with loan guaranties, business counseling and training, and access to federal contracts. The SBA has a Veterans Business Development Officer at each of its 70 district offices. They’re experts in the full range of SBA programs. Additionally the Office of Veterans Business Development funds Veterans Business Outreach Centers to provide hands-on assistance, e-counseling and referrals to your nearest SBA office.

Two specific SBA Web sites are maintained for veterans.

The first, www.sba.gov/VETS, is primarily focused on veterans and service-disabled veterans.

The second, www.sba.gov/reservists, emphasizes services for self-employed Reserve and National Guard members who have been, or may be called to federalized active duty through Title 10.

The SBA’s wide range of services and programs for veterans include:

**SBA Loan Guaranties**

- **7(a) Loans.** The primary SBA loan program provides guaranties to participating lenders to encourage access to capital that would not otherwise be available to small businesses without the guaranty. These loans may be used for business start-ups, expansion, equipment purchases, working capital, inventory or real-estate acquisition. A 7(a) loan cannot exceed $2 million. For loans under $150,000, the SBA guaranties 75 percent. For larger loans, the guaranty is 85 percent, up to a maximum guarantied amount of $1 million.

- **LowDoc Loans.** The low documentation loans feature a one-page SBA application and fast turnaround for loans under $150,000.

- **CAPLines.** This program provides for short-term working capital needs, such as seasonal lines of credit, contract lines of credit and builders’ lines of credit.

- **504 Loans.** These loans are for long-term, fixed-asset financing and are made through SBA-approved community development companies in conjunction with private lenders.

- **Microloans.** Through nonprofit intermediaries, loans up to $35,000 are available to small businesses needing smaller amounts of capital for start-up and business expansion. The maximum term is six years, and interest rates are negotiated with the intermediary.
• Military Reservist Economic Injury Disaster Loans. Loans of up to $1.5 million can help small businesses sustain operations when an essential employee or owner is called to federal active duty as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty. The purpose of these loans is not to cover lost income or lost profits. MREIDL funds cannot be used to take the place of regular commercial debt, to refinance long-term debt or to expand the business. More information is available at: http://www.sba.gov/disaster_recov/loaninfo/militaryreservist.html.

• Venture Capital. Small Business Investment Companies. Licensed and regulated by the SBA, these privately owned and managed companies invest venture capital and start-up financing in small businesses.

• Surety Bond Guarantee Program. Under this program, the SBA can guarantee bid, performance and payment bonds on contracts up to $2 million for eligible small businesses that cannot obtain bonds through regular, commercial channels.

Growing Your Business

• SCORE counseling. SCORE, Counselors to America’s Small Business, has nearly 400 offices around to nation to assist entrepreneurs and small business owners with preparing business plans, completing loan applications and business management. The SCORE Web site, www.score.org, has an entire section of help for veterans.

• Online Training. The Small Business Training Network is a virtual campus housing free training courses, workshops and knowledge resources designed to assist entrepreneurs and other students of enterprise. The Training Network makes SBA’s business management resources available anytime and anywhere to help small businesses compete in a constantly changing, global environment. The Web site is http://www.sba.gov/training/.

Federal Contracting Assistance

• Office of Federal Contract Assistance. Veterans who are service-disabled and own small businesses have a single point of contact to address questions and concerns and learn about procurement opportunities designated for them. The office helps federal agencies meet their 3 percent prime and subcontracting goals and offers the veterans guidance on sole-source and set-aside procurement opportunities. More information is at: http://www.sba.gov/GC/.

• 8(a) Business Development Program. Small companies owned and operated by socially and economically disadvantaged individuals may be eligible for this program.
Certified 8(a) businesses receive training and business-development support along with federal contracting opportunities. • Small Disadvantaged Business Certification. SDB certification by the SBA ensures that small businesses owned and controlled by socially and economically disadvantaged individuals meet SDB eligibility criteria. Certification may qualify these businesses for price evaluation credit on federal contracts.

• HUBZone Empowerment Contracting Program. This program encourages economic development in historically under utilized business zones through the use of federal contract preferences for eligible firms. HUBZones are distressed communities with low income and high unemployment. More information is at: https://eweb1.sba.gov/hubzone/internet/.

• Federal Procurement Assistance. A Procurement Center Representative helps small businesses obtain federal contracts through the Prime Contracts and Subcontracts programs. The Certificate of Competency program helps small businesses in the appeal process to low-bidding firms that have been denied contracts for a perceived inability to perform satisfactorily. Find more information at: http://www.sba.gov/businessop/programs/pcr.html.

Advocacy

• Office of Advocacy. The SBA’s Office of Advocacy is an independent voice for small business within the federal government. The office advances the views, concerns, and interests of small business before Congress, the White House, federal agencies, federal courts and state policy makers. Economic research, policy analyses, and small business outreach help identify issues of concern. More information is available at: www.sba.gov/advo/.

Regulatory Fairness

• National Ombudsman. This office assists small businesses with unfair and excessive federal regulatory enforcement, such as repetitive audits or investigations, excessive fines, penalties, retaliation or other unfair regulatory enforcement action by a federal agency. The Ombudsman coordinates 10 regional Small Business Regulatory Fairness Boards which meet regularly to receive comments about federal regulations affecting small businesses. More information is at: http://www.sba.gov/ombudsman/ or by calling 1-888-REG-FAIR. SBA on the Internet • SBA Web page: www.sba.gov. This Web site provides detailed information on all SBA programs and services for business start-up, planning and development.

• Online Women’s Business Center: www.onlinewbc.gov. This site is full of great information for starting and growing your business and has an interactive business plan site.
• Business.Gov. www.business.gov. This site provides state-by-state legal and regulatory information for small businesses. Business tax information and forms are also available.

For more information: SBA offices are located in all 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam. For the office nearest you, look under “U.S. Government” in your phone directory or check the SBA online at www.sba.gov.

What to do

• Use the resource section to research information on self employment
• Use one of the many templates for self employment plans and complete it
• Have someone who is knowledgeable in the same business review your plan and give you feedback. Small Business Administration has an excellent plan and Senior Core of Retired Executives (SCORE)

Service Disabled Veteran-Owned Small Business Initiative

The Small Business Development Act of 1999 amended the Small Business Act by adding Small Businesses owned and controlled by service-disabled veterans to the categories of small businesses for which the Federal agencies develop prime contract goals.

On December 16, 2003, President Bush signed Public Law No. 108-183, The Veterans Benefits Act of 2003. Section 308, Procurement Program for Small Business Concerns Owned and Controlled by Service-Disabled Veterans, permits contracting officers to restrict competition to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than two service-disabled owned small business concerns will submit offers and that award can be made at a fair market price. On October 20, 2004, President Bush signed Executive Order (EO) 13360. Consistent with the EO, the Department’s Strategic Plan to implement EO 13360 is provided at: FY 2006 DOE Strategic Plan for Small Business - Service Disabled Veteran-Owned Business Program. On June 7, 2005, the Secretary of Energy issued a statement outlining the Department’s policy on Contracting with Service-Disabled Veteran-Owned Small Businesses.

In addition, the law authorizes sole source awards to service-disabled veteran owned small business concerns under certain conditions.

For more information on the service-disabled or veteran-owned small business programs, contact the SBA’s Office of Federal Contract Assurance for Veteran Business Owners at (202) 205- 7330, visit the website at SBA’s Office of Veterans Business Development, at http://www.sba.gov/vets or visit the U.S. Department of Veteran Affair’s website at http://www.va.gov. The Association of Service-Disabled Veterans (ASDV) site may also be helpful when seeking sources and general information at: http://www.asdv.org.

*NOTE
Go to the following website for this page.

http://smallbusiness.doe.gov/Small_Business_Programs/Service_Disabled_Veterans-Owne/service_disabled_veterans-owne.html
INSTRUCTOR OUTLINE

Section 5: USERRA

Suggested time: 45 minutes

Power Points

Participant Objectives:

- Upon review of this topic, the participant will know the basic elements of USERRA and eligibility criteria.
- Participant will have knowledge of where to obtain assistance information.

KEY POINTS:

- USERRA is a valuable benefit that all Guard and Reserve members need to be aware of when they return to civilian employment.

- There are many complexities of the USERRA law. You have to contact the correct authorities for assistance to determine if they have merit to their situation.

1. Ask how many of were employed at the time they were called up? Is this a job you can or want to go back to?

2. Discuss USERRA and what the intent of the law is for this benefit.

*NOTE
Show the power point slides. Explain: Even if they left a job that wasn’t their dream job, it might be worth their time and energy to go back.
Objective
Participants will be able to:

- Understand the fact there is a law (Uniformed Service members Employment Reemployment Rights Act) which assists in the protection of employment, reemployment and discrimination issues associated with military service
- Understand basics of the law
- Know where to get help if you feel there is a USERRA issue

What to know

USERRA’s main objective is to place returning service members in the job they would have attained if they had remained continuously employed instead of performing military service.

Under this law, a person who leaves a civilian job to perform military service (voluntarily or involuntarily), may be entitled to return to his or her civilian job after discharge or release from their military obligation if the service member meets basic eligibility criteria.

If you think you may be eligible for this right, contact the Director of Veterans’ Employment and Training (DVET) in your state. Contact information is listed in most telephone directories under U.S. Government, Department of Labor and is available through the transition website.
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

April 2005
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.dolgov/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: wv.dol.gov/elaws/userra.htm, or call the Compliance Assistance hotline at 1-866-4- I. JSA-DOL.

Disclaimer
This user’s guide is intended to ne a non-technical resource for informational purposes only. Its contents are not legally binding nor should it ne 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, 994 (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 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
• 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 Nonrecurr**ent**” 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, nonrecurr**ent** 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)).

Disqualifying service (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).

Reporting back to work (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, 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, 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 at 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.

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

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<thead>
<tr>
<th>Service Member Obligations</th>
<th>Yes</th>
<th>No</th>
<th>Comments</th>
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<tbody>
<tr>
<td>1. Did the service member hold a job other than one that was brief, nonrecurring? (exception would be discrimination cases.)</td>
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<td>2. Did the service member notify the employer that he/she would be leaving the job for military training or service?</td>
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<td>3. Did the service member exceed the 5-year limitation limit on periods of service? (exclude exception identified in the law)</td>
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<td>4. Was the service member discharged under conditions other than disqualifying under section 4304?</td>
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<td>5. Did the service member make application or report back to the pre-service employer in a timely manner?</td>
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<td>6. When requested by the employer, did the service member provide readily available documentation showing eligibility for reemployment?</td>
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<td>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 in these cases.</td>
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## Employer Obligations

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<tr>
<th>Employer Obligations</th>
<th>Yes</th>
<th>No</th>
<th>Comments</th>
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<tbody>
<tr>
<td>1. Did the service member give advance notice of military service to the employer? (This notice can be written or verbal)</td>
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<td>2. Did the employer allow the service member a leave of absence? The employer cannot require that vacation or other personal leave be used.</td>
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<tr>
<td>3. Upon timely application for reinstatement, did the employer timely reinstate the service member to his/her escalator position?</td>
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<tr>
<td>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.</td>
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<tr>
<td>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?</td>
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<td>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 &quot;nearest approximation&quot; of the position to which the person was otherwise entitled, in terms of status and pay, and with full seniority?</td>
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<tr>
<td><strong>Employer Obligations</strong></td>
<td><strong>Yes</strong></td>
<td><strong>No</strong></td>
<td><strong>Comments</strong></td>
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<td>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?</td>
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<td>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?</td>
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<td>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?</td>
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<td>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?</td>
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<td>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?</td>
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RESOURCES

One Stop Career Centers

www.servicelocator.org  (find the one stop center nearest you)
www.careeronestoop.org
www.dol.gov/topic/training/onestop.htm
http://nvti.cudenver.edu/training/orientation

LMI

www.careerstop.org/LMI/LMlhome  (national and local information from the Career One Stop)
www.bls.gov  (national information from Bureau of Labor Statistics)
www.doleta.gov.almis  (national and local information from Department of Labor, Employment and Training)
www.bls.gov/bls/ofolist.htm  (state specific information from the Bureau of Labor Statistics)

Homelessness

www.national  homeless org./publications/facts.html  (National Coalition for the Homeless)
www.va.gov/homelessness
www.dol.gov/vets/programs/fact/homelessveterans
www.dol.gov/vets/programs/hvrp/HVRP2006

PTSD
www.ncptsd.va.gov/facts/general
www.ptsdalliance.org
www.NIMH.nih.gov/healthinformation/PTSD
www.mhsanctuary.com/ptsd

Department of Veteran Affairs

VA Regional Offices – There are 56 regional offices across the country which provide information and employment services for veterans. Call 800-827-1000 to locate the office nearest you, or visit the VA website at www.va.gov.

Vet Centers are operated by the VA and have counselors and staff who are specifically trained in working with mental health issues.

Veterans Service Organizations – many Veteran Service Organizations offer employment services and assistance. Check your local phone book white pages for listings.

Starting a Small Business

www.hirevetsfirst.gov
www.sba.gov/VETS
www.sba.gov/reservists
http://www.sba.gov/disaster.recov/loaninfo/militaryreservist.html
www.score.org
http://www.sba.gov/training/
http://www.sba.gov/GC
https://eweb1.sba.gov/hubzone
www.mybizforwomen.com

USERRA

http://nvti.cudenver.edu/userracdl/ (on-line course on USERRA)
http://www.esgr.org (Employer Support of the Guard and Reserve)
www.dol.gov/vets/programs/userra/main.htm