

PROTECTING THE RIGHTS OF SERVICEMEMBERS

U.S. Department of Justice
Civil Rights Division



Civil Rights for Servicemembers

Members of the armed forces make great sacrifices in order to protect our nation. Recognizing these sacrifices, Congress has enacted a number of laws specifically designed to protect the civil rights of servicemembers, both while they are on active duty and after they return to civilian life. These laws ensure that servicemembers will be able vote while they are stationed overseas, return to their civilian employment after completing their service and have certain civil financial protections while on active duty. Additionally, servicemembers who have been injured during their service and return to civilian life with a new disability have civil rights guaranteed by the law.

This brochure provides a brief explanation of the civil rights of servicemembers, as well as information about how to learn more or to file a complaint if you believe your rights have been violated.



Photo courtesy of defenseimagery.mil



Employment

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects the civilian employment rights of servicemembers and veterans. Among other things, under certain conditions, USERRA requires employers to put individuals back to work in their civilian jobs after military service. If you are eligible for reemployment, you must be restored to the position and seniority-based benefits that you would have attained or, in some cases, a comparable job, had you not been absent from work to perform military service.

USERRA also protects servicemembers from discrimination in the workplace based on their military service or affiliation. An employer may not terminate you or deny you initial employment, retention in employment, promotion, or any other benefit of employment because of your status as a servicemember. An employer also may not retaliate against you or any other person for asserting, or assisting with the assertion of, USERRA rights.



Photo courtesy of defenseimagery.mil

USERRA also entitles you to the right to continue your existing employer-based health plan coverage for



up to two years while in the military, and to reinstate your health insurance once you are reemployed. Additionally, upon reemployment following a period of absence for uniformed service, the employer must treat you as not having had a break in service for purposes of participation, vesting, and accrual of benefits in pension plans. If you are enrolled in a contributory plan, you are allowed, but not required, to make up missed contributions to the plan or elective deferrals, and receive the employer's match, if any.

Servicemembers who believe that they have been victims of employment discrimination based on their military service may file a complaint with the Department of Labor (DOL) or file their own lawsuit in federal or state court.

It is important that you file a complaint with DOL or consult with a private attorney as soon as possible. To file a complaint under USERRA, contact your nearest Veterans' Employment and Training Service (VETS) office, which you can locate by visiting www.dol.gov/vets/aboutvets/contacts/main.htm, or calling DOL at 1-866-4USADOL (487-2365) .

DOL will investigate the complaint and may attempt to voluntarily resolve the complaint. If DOL cannot resolve the complaint, upon the complainant's request, DOL will forward to the complaint to the Department of Justice's Civil Rights Division.



Financial Protection for Servicemembers

The Servicemembers Civil Relief Act (SCRA), formerly known as the Soldiers' and Sailors' Civil Relief Act (SSCRA), is a federal law that provides a range of relief to active duty servicemembers. The law's purpose is to postpone or suspend certain civil obligations so that members of the Armed Forces can focus their full attention on their military responsibilities without adverse consequences for them or their families. It covers issues such as rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosure, civil judicial proceedings, automobile leases, life insurance, health insurance and income tax payments.



The types of relief provided under the law include:

- Reducing the rate of interest for debts incurred before entering active duty to 6 percent;



- Protecting servicemembers against default judgments, evictions, mortgage foreclosures, and repossessions of property;
- Giving servicemembers the ability to terminate residential and automobile leases.

If you think your rights under the SCRA may have been violated, you should contact your nearest Armed Forces Legal Assistance Program office to see if the SCRA applies. Dependents of servicemembers can also contact or visit local military legal assistance offices where they reside. Office locations may be found at <http://legalassistance.law.af.mil/content/locator.php>.

In order to have your SCRA case reviewed by the Department of Justice, you should first seek the assistance of your military legal assistance office. If that office cannot resolve the complaint, it may choose to forward the complaint to the Department of Justice.

Voting

The right to vote is among our most basic and cherished civil rights. Enacted in 1986, the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) protects the right of servicemembers to vote in federal elections regardless of where they are stationed. This law requires that states and territories allow members of the United States Uniformed Services and merchant marine, their family members, and United States



citizens residing outside the United States to register and vote absentee in elections for Federal offices. UOCAVA was expanded significantly in 2009, when Congress passed the Military and Overseas Voter Empowerment (MOVE) Act to provide greater protections for servicemembers, their families and other overseas citizens.

Among its key provisions, UOCAVA, as amended by the MOVE Act, allows qualified servicemembers and overseas citizens to:

- Register to vote and request an absentee ballot simultaneously on a single federal form.
- Request and receive voter registration and absentee ballot applications and blank absentee ballots by electronic transmission, such as by fax or email.
- Have their timely-requested ballots sent to them no later than 45 days before an election for federal office (subject to certain conditions).
- Track the receipt of their absentee ballots through a free access system.
- Use a “back-up” ballot, called the Federal Write-In Absentee Ballot (FWAB), to vote for federal offices if they have made a timely application for, but have not received, their regular ballot from their home state or territory, subject to certain conditions. The



FWAB is available at military installations and embassies worldwide, and an official on-line version of this ballot and instructions are available on the Defense Department's voting website.

The Federal Voting Assistance Program (FVAP) in the Department of Defense actively monitors the voter registration and absentee voting opportunities provided to members of the Armed Forces, and assists servicemembers and their families to facilitate their participation in the voting process. If you have a question or believe you have been denied any of the rights guaranteed by UOCAVA, you can contact the FVAP with the details, and FVAP can forward the relevant information to the Department of Justice for assessment. The United States Attorney General is authorized to enforce UOCAVA and the Department of Justice has filed suits against states that fail to comply with their requirements.

The FVAP website provides detailed information about voting procedures and materials. The website can be found at www.fvap.gov. You can also contact the FVAP at:

Federal Voting Assistance Program
Department of Defense
4800 Mark Center Drive
Mailbox 10
Alexandria, VA 22350-5000
E-mail: vote@fvap.gov
U.S. Toll-free: 800-438-VOTE (8683)



Americans with Disabilities

The Americans with Disabilities Act of 1990, or the ADA, gives civil rights protections to individuals with disabilities. The ADA prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in the mainstream of American life -- to enjoy employment opportunities, to purchase goods and services, and to participate in State and local government programs and services. Modeled after the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, or national origin, the ADA is an "equal opportunity" law, not a benefit program entitling you to specific services or financial assistance because of your disability.

The ADA uses different standards than the military and the Department of Veterans Affairs in determining disability status. The ADA covers people with a physical or mental impairment that substantially limits one or more major life activities such as walking, speaking, lifting, hearing, seeing, reading, eating, sleeping, concentrating, or working. Major life activities also include the operation of major bodily functions such as brain, immune system, respiratory, neurological, digestive, and circulatory functions.

Businesses and State and local government agencies must take reasonable steps to make it possible for people with disabilities to be their employees or customers.





Courtesy of Disability Rights Advocates for Technology (DRAFT), taken at a DRAFT-sponsored event for wounded warriors in San Antonio, Texas, November 2008.

For more information about protections under the ADA, visit www.ada.gov, or call the ADA information line at:

800-514-0301 (voice)

800-514-0383 (TTY)

A brochure describing the rights of servicemembers under the ADA in more detail can be found at www.ada.gov/servicemembers_adainfo.html.



U.S. Department of Justice

To enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans.

Civil Rights Division

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