



# STATESIDELEGAL

Legal help for military members, veterans and their families

## Stateside Legal™ Self-Help Sample Forms Packet

### Active Duty Absence Notification Letter (Protections under the USERRA)

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This self-help resource was created by the Stateside Legal Project. Stateside Legal provides these sample forms and information free of charge to individuals with military connections (IMC). These forms are not based upon any specific state law or jurisdiction. They are intended as samples of how to use the protections of the Rights Act (USERRA).

**READ ALL INSTRUCTIONS AT THE END OF THIS PACKET VERY CAREFULLY.**

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**DISCLAIMER:** *The Stateside Legal Information Series is produced by the Pine Tree Legal Assistance of Maine®, Arkansas Legal Services Partnership®, and the Legal Services Corporation®. These organizations promote or provide free legal services to eligible low-income people. Additional information can be found at [www.lsc.gov](http://www.lsc.gov). This sample form packet is given to you as a guide to help you generally understand the way legal matters are handled. Local courts interpret things differently. The information and statements of law contained in this fact sheet are not intended to be used as legal advice. Before you take any action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.*

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**SAMPLE LETTER FROM SERVICE MEMBER TO EMPLOYER**

SERVICEMEMBER'S NAME  
ADDRESS  
CITY, STATE ZIP

DATE

EMPLOYER  
ADDRESS  
CITY, STATE ZIP

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Re: Reinstatement – Uniformed Services Employment and Reemployment Rights Act  
Title 38, U.S.C. §§ 4301-33.

Dear Sir/Madam:

My unit has been activated. I will perform military service with the (NAME OF SERVICES) beginning on (START SERVICE DATE) and ending on (END SERVICE DATE). My absence from work for this period of military service is protected by the Uniformed Services Employment and Reemployment Rights Act, Title 38, U.S.C. §§ 4301-33.

My last day at work with (EMPLOYER) before I begin my military service will be (DEPART WORK DATE). I expect to return to work with you on or about (RETURN TO WORK DATE).

During my absence, I can be reached at (MAILING ADDRESS/TELEPHONE NUMBER).

Please be advised that I may not be required to use vacation pay or time for military absence from my workplace, per Title 38, United States Code Section 4316(d).

I desire to continue my health care insurance, per 38 U.S.C. § 4317.

Questions about the provisions of the Uniformed Services Employment and Reemployment Rights Act can be directed to the National Committee for Employer Support of the Guard and Reserve (Department of Defense) at 1-800-336-4590 or by visiting [www.esgr.mil](http://www.esgr.mil).

Sincerely,

SERVICEMEMBER'S NAME

Enclosures (1): Copy of Activation Orders

Original Received for Employer by:

\_\_\_\_\_  
(Printed Name and Signature)

DATE: \_\_\_\_\_

## **LAW YOU SHOULD KNOW**

The Uniformed Services Employment and Reemployment Rights Act (USERRA) is a federal law that provides members of the Armed Forces, Reserves, National Guard or other uniformed services certain rights and protections concerning civilian employment.

**The law seeks to minimize disruption to the lives of service members by ensuring that they are able to retain their civilian employment and benefits while serving their country**, and by providing protection from discrimination because of their service.

### **DOES THE USERRA APPLY TO ME?**

- USERRA covers most everyone who has served or will serve in the uniformed services.
- USERRA applies to all employers in the public and private sector, including federal employers.
- USERRA protections apply to all military service, whether the service is voluntary or involuntary.
- USERRA does not apply to a state activation of the National Guard, but many states have enacted similar laws to protect servicemembers recalled under state authority.

### **SERVICE MEMBER/EMPLOYEE OBLIGATIONS**

- **NOTICE:** The service member is responsible for giving the employer notice of the possibility of an absence before active service begins. Notice is not required where prohibited by military necessity or where it would be unreasonable, but members are strongly encouraged to provide written notice to their employers 30 days in advance if possible. Notice may also be provided to the employer by the member's command.
- **RECORDS:** The service member should also make reasonable efforts to maintain records that may be helpful upon return from an absence, including copies of signed orders.
- **RETURN TO WORK:** Depending on the length of absence, the service member will be required to report back to work or apply for reemployment within a specified period of time:
  - Two (2) weeks for absences of 31-180 days or
  - Ninety (90) days for absences of 181 days or more.

### **BASIC EMPLOYER OBLIGATIONS**

- **Prompt reinstatement.** The service member must be reemployed promptly.
- **Accrued seniority.** Service members must be permitted to accrue seniority as if continuously employed.
- **Training or re-training and other accommodations.** The employer is obligated to train or re-train the service member for the job returned to.
- **Special protection against discharge, except for cause.** The employer may not discharge the reemployed service member for 180 days following periods of service of 31-180 days, or for one year where the member's service lasted more than 181 days.

### **MORE INFORMATION**

For information about the Uniformed Services Employment and Reemployment Rights Act or many more topics concerning individual with military connections, visit [www.statesidelegal.org](http://www.statesidelegal.org) or contact your local Judge Advocate General's Corps office.

*Some original content provided by the Department of Defense web site and/or DOD organizations*

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