

Stateside Legal™

Self-Help Sample Forms Packet

Return Notification Letter to Employer (Protections under the USERRA)

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 Uniformed Services Employment and Reemployment 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. 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.*

SAMPLE LETTER PROVIDING RETURN NOTIFICATION TO EMPLOYER

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DATE

SERVICE MEMBER'S NAME
SERVICE MEMBER'S ADDRESS

EMPLOYER
EMPLOYER'S ADDRESS

Re: Reinstatement – USERRA, Title 38, U.S. Code Section 4312

Dear Sir/Madam:

On (START SERVICE DATE), I entered active duty with the (SERVICE BRANCH). On (END SERVICE DATE), I was honorably released from active duty.

Please accept this letter as a formal request to be reinstated in my former job. With your permission, I plan to report to work on (RETURN TO WORK DATE). Please call me at the number listed below if this date is not convenient. Pursuant to the Uniformed Services Employment and Reemployment Rights Act, Title 38, United States Code Sections 4301-4335, I am entitled to be reinstated as soon as possible in my former position. The full Act is freely available for review on the United States Department of Labor website www.dol.gov.

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.org.

Thank you for your patriotic support and cooperation in this matter.

Sincerely,

SERVICE MEMBER'S NAME

Enclosures (1): Copy of de-activation orders stating honorable release from active duty

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.

SERVICE MEMBER/EMPLOYEE OBLIGATIONS

- **NOTICE:** Just as you, or your Commanding Officer, provided written notice to your employer about your absence due to active service, it is best to provide written notice about your return to work.
- **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 TIME:** 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.
- **Training.** 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.

WHAT IF I AM DENIED REINSTATEMENT?

Many employment conflicts can be avoided by being candid with your employer about your obligations as a member of one of the Reserve components. Another option is contacting your local Employer Support of the Guard and Reserve (ESGR) Program Support Specialist. They are available to assist you in ESGR-related matters that do not require intervention between an employer and service member. Visit www.esgr.org and click on "Resources for Servicemembers" to locate your ESGR Support Specialist.

If you DO encounter a conflict with your employer, then contact the ESGR. They are a Department of Defense organization that answers questions or provides mediation between you and your employer. You can submit a request online at the ESGR website or at the information below.

Employer Support of the Guard and Reserve

1555 Wilson Blvd., Suite 200

Arlington, VA 22209-2405 | Phone: 1-800-336-4590 | E-mail: USERRA@osd.mil

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 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

Resource Date: June 2010