

## **USERRA BASICS**

### **PREMOBILIZATION**

USERRA (Uniformed Services Employment and Reemployment Rights Act) Insures that Service members will not be disadvantaged by their employer should they choose to serve. Does not matter whether military service voluntary or involuntary. **WE ALL SERVE!!** . . . Employers as well as uniformed service members. If you feel you are being disadvantaged due to your choice to serve you should call [503-584-3445](tel:503-584-3445). Dianne Nordhaus. She is our Ombudsman Director and is on call 24-7 to assist you. **There is no such thing as a stupid question!!!**

### **DISCRIMINATION PROHIBITED**

Initial hire, any benefit of employment to include salary rate, vacation rate of accrual, health benefits, retirement pension benefits, promotions and others. Includes harassment due to military service.

**Promotions** cannot be denied simply because you are not available at the time to occupy the position. Let your employer know before you leave if you are interested in a particular position if it comes up while you are away on duty. *(Have someone with your interests at heart contact you if a position is opened. Apply via phone, on line or snail mail.)*

**Health Insurance:** You may maintain, but you are not required to maintain the health insurance offered by your company. They may charge you up to 102% of its cost. (2% to handle clerical work). See the attached [Military Leave of Absence](#) form. **LET YOUR EMPLOYER KNOW WHAT YOU WANT TO DO ABOUT YOUR HEALTH BENEFITS BEFORE YOU LEAVE. THEY CANNOT REQUIRE YOU TO MAINTAIN BUT YOU MAY CHOOSE TO DO SO.**

You may use **vacation time**, or other accrued leave for military duty, but you are not required to. *(You choose).*

You may add additional time, *(be reasonable and prudent)* to get your affairs in order prior to your departure. This may be included in your military leave of absence. *(In other words, not all of the time you spend on a military leave of absence needs to be spent on military duty).*

You are not expected to notify your employer before you leave that you do not intend to return to that job. ***(It is highly recommended you do not resign a position before you leave for duty).*** You may decide, before you return, that you would like that job back. If you resign, you could forfeit some of the benefits, but you would not entirely give up **all** of your reinstatement rights.

### **DEMOBILIZATION**

#### **JOB REINSTATEMENT RIGHTS:**

**Prompt reinstatement:** Within days, not weeks or months in the *escalator position*.

You have the right to be reinstated in a position of the same seniority, status and pay it is reasonably expected you would have had if you had been continuously employed, as long as you qualify for that position. If you must be retrained or recertified, your employer must work to get you retrained or recertified as soon as possible. *(Some professionals are required to maintain their own certification.)* Until you are retrained or recertified, you must be reinstated in a position of like seniority, status and pay as close as possible to the escalator position.

**Location is part of status:** You are entitled to be reinstated in the same location if that position still exists even if they have placed someone else in that position.

You are entitled to advance on the salary schedule to the point you would have been had you been continuously employed. If you were in a "probationary" or "apprenticeship" position, you must complete that probation or apprenticeship before you receive the advanced salary/position. Upon completion you are entitled to the advanced salary retroactively.

Immediately upon reinstatement your employer health coverage picks up with no pre-existing conditions waiting period. However, if you delay signing up for your employer health insurance because you are still on military provided health insurance, your health insurance can require a pre-existing condition waiting period.

**HIGHLY RECOMMENDED YOU OPT FOR YOUR EMPLOYER PROVIDED HEALTH INSURANCE IMMEDIATELY UPON YOUR REINSTATEMENT**

If you become disabled and if it does not cause unreasonable hardship on your employer they must accommodate for your disabilities and place you in a position that is as close as possible to the escalator position. Your employer can be excused from this accommodation if it causes undue hardship for the business.

Upon reinstatement your job is **protected against discharge** except for due cause:

- service of 31-180 days; 180 days of protection
- service more than 180 days; 1 year of protection

### **YOUR RESPONSIBILITIES** for REINSTATEMENT UNDER USERRA

- You must have been employed in a job that was not of a brief, nonrecurrent period
- You must have served military duty
- You must have NOTIFIED your employer of your impending military duty. (Can be oral or written.)  
**Written or trackable notification is strongly recommended.**
- You must not have exceeded the 5year time limit with your current employer. (*Title 10 and some other types of duty is exempt from the 5year limit*)
- You must notify of availability to return to work within the time limit:
  - 1-30 days: Next shift after adequate travel time and adequate rest
  - 31-180 days: No later than 14 days after completion of service
  - 181 or more days: No later than 90 days after completion of serviceDisability: Reporting or application deadlines may be extended for up to two years.
- You must have been discharged under honorable conditions. (*Your employer can require documentation to show you were honorably discharged and the dates you were released from duty.*) However, if documents are not currently available, they cannot refuse to reinstate you in a timely fashion. **Provide as soon as possible.**

### **Other Reminders:**

You will have time to make up missed contributions to your **pension plan** without interest. You will have up to 3 times the length of your service period not to exceed a total of 5 years.

If you work for a Union, the Union or "hiring hall", the Union is considered your employer.

**Relationship to other Laws:** No other laws or union contracts or other agreements can override USERRA. However, other advantages can be added to USERRA.

### **Oregon Bureau of Labor & Industries (BOLI)**

#### **Oregon Specific Laws for State Orders:**

(ORS 659A.082; 659A.086 & 659A.088)

- Employer (Technical Assistance): ► 971-673-0824
- Employees (Technical Assistance)
  - Wage & Hour Division (for questions about time off, travel, training) 971-673-0844
  - Civil Rights Division (for questions about discrimination, differential treatment) 971-673-0764

### **POSSIBLE READMISSION PROTECTIONS FOR**

**STUDENTS:** Federal law requires certain institutions to re-admit students upon return for active duty. However, some institutions have policies that provide greater protections related to their active duty service. We suggest you check with Veteran's Affairs at your institution.

<http://www2.ed.gov/policy/highered/guid/readmission.html> For general questions of the US Department of Education PHONE: 1-800-872-5327

NOTE: IF YOU ARE RECEIVING FEDERAL GRANT FUNDS (NOT THE GI BILL) AND HAVE QUESTIONS, THE US DEPARTMENT OF EDUCATION MAY BE ABLE TO ASSIST YOU WITH THOSE QUESTIONS.