

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
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Date: January 26, 2006 **Code: HR 2006-04**

To: CSU Presidents **Reference:** HR 2005-11,
HR 2004-21, HR 2002-10,
HR 2001-25 and Sup. #1

From: Jackie R. McClain 
Vice Chancellor
Human Resources

Subject: **Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 - Final Rules**

On December 19, 2005, The Department of Labor (DOL) released the final rules on the Uniformed Services Employment and Reemployment Rights Act of 1994. Employers are required to comply with the final rules beginning January 18, 2006. Please note that in DOL's view, the new rules do not impose any new legal requirements, but rather explain existing ones, in some cases for the first time. Please note that the California State University military leave policy is in compliance with these final rules, and in some cases due to state law or CSU policy, is more generous than federal law. Campuses may review or download the USERRA regulations via the DOL website at: <http://www.dol.gov/vets/regs/fedreg/final/2005023961.pdf>

With the release of the final regulations, an updated USERRA notice to employees was created. Campuses are to post the updated notice beginning January 18, 2006. A copy of the revised notice is attached or campuses may download the updated version from the DOL website at:
http://www.dol.gov/vets/programs/userra/USERRA_Private.pdf - Non-Federal

DOL created two versions of the required notice - one for federal employees and the other for the private sector and state government employees. CSU campuses should use the version for private sector and state government employees.

If you have any questions, please contact Pamela Chapin in Human Resources Administration at (562) 951-4414 or via e-mail at <mailto:pchapin@calstate.edu>. This memorandum also is available on the Human Resources Administration's Web page at: <http://www.calstate.edu/HRAAdm/memos.shtml>.

JRMcC/pc

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YOUR RIGHTS UNDER USERRA

THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

REEMPLOYMENT RIGHTS

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- ☆ you ensure that your employer receives advance written or verbal notice of your service;
- ☆ you have five years or less of cumulative service in the uniformed services while with that particular employer;
- ☆ you return to work or apply for reemployment in a timely manner after conclusion of service; and
- ☆ you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- ☆ are a past or present member of the uniformed service;
- ☆ have applied for membership in the uniformed service; or
- ☆ are obligated to serve in the uniformed service;

then an employer may not deny you:

- ☆ initial employment;
- ☆ reemployment;
- ☆ retention in employment;
- ☆ promotion; or
- ☆ any benefit of employment

because of this status.

In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

HEALTH INSURANCE PROTECTION

- ☆ If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.
- ☆ Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

ENFORCEMENT

- ☆ The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.
- ☆ For assistance in filing a complaint, or for any other information on USERRA, contact VETS at **1-866-4-USA-DOL** or visit its **website at <http://www.dol.gov/vets>**. An interactive online USERRA Advisor can be viewed at **<http://www.dol.gov/elaws/userra.htm>**.
- ☆ If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice for representation.
- ☆ You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

The rights listed here may vary depending on the circumstances. This notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/vets/programs/userra/poster.htm>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying this notice where they customarily place notices for employees.



U.S. Department of Justice



U.S. Department of Labor
1-866-487-2365



1-800-336-4590

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