

Basic Provisions

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Basic Provisions

Reference Number: MTAS-1492

The general military leave law provides four basic entitlements to employees returning from active service:

- prompt reinstatement,
- accrued seniority,
- training or retraining to ensure that the employee can perform the functions of the job, and
- special protection against discrimination and retaliation in addition to special protection against discharge for 180 days following periods of service from 31 days to 180 days (except for cause). This protection is extended to one year for periods of service of 181 days or more.

Under USERRA, re-employment rights are required for any person who is absent from work because of service in the uniformed services. The "uniform services" consist of the following (20 CFR 1002.5(o)):

- Army, Navy, Marine Corp, Air Force and Coast Guard
- Army Reserve, Naval Reserve, Marine Corp Reserve, Air Force Reserve and Coast Guard Reserve
- Army National Guard and Air National Guard
- Commissioned Corps of the Public Health Service
- Any other category of persons designated by the President in time of war or emergency

USERRA requires that returning service members be re-employed in the job they "would have attained" had they not been absent for military service, with the same seniority, status and pay, as well as other rights and benefits determined by seniority. 38 U.S.C. § 4316(a). Additionally, returning employees are entitled to any other benefits not based on seniority. 38 U.S.C. § 4316(b).

All employers are required to notify employees of their rights under USERRA. The notice must explain what rights and protections employees have under the Act, including the right to re-employment after uniformed service, freedom from discrimination and retaliation for serving in uniform and certain health insurance protections (38 U.S.C § 4334).

The U.S. Department of Labor, Veterans Employment and Training Service (VET) has prepared a poster that may be used to fulfill the requirements. It can be downloaded from https://www.dol.gov/vets/programs/userra/USERRA_Private.pdf [1].

Links:

[1] https://www.dol.gov/vets/programs/userra/USERRA_Private.pdf

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Source URL (retrieved on 09/16/2019 - 4:29pm): <https://www.mtas.tennessee.edu/reference/basic-provisions>

