

USERRA Best Practices for Employers



'Escalator' Principle

Upon return to work, the employee/service member is generally entitled to the position, seniority and benefits they would have if they'd never been away. The employer must make reasonable efforts to qualify/train the returning employee/service member. The position may not necessarily be the same job the person previously held.



Notice

Encourage employees to provide at least 30 days of advance notice before taking USERRA leave. Notice isn't required if military necessity prevents it, or if it's impossible or unreasonable given the circumstances. All employers must provide employees notice of their rights, benefits and obligations under USERRA - posting the DOL's "Your Rights Under USERRA" notices satisfies this obligation.



Check State Law

Employers should be aware of relevant state leave laws that may also apply.



Documentation

Keep detailed records regarding the leave taken, including start and end dates of the absence.



HR's Role

Have a military leave policy. Train managers on your military leave policies and procedures, and communicate them to employees. HR should confirm the benefits and compensation rules for employees requesting military leave.