



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

JAN 27 2022

OFFICE OF THE ASSISTANT SECRETARY

MEMORANDUM FOR CHIEF OF STAFF OF THE AIR FORCE
CHIEF OF SPACE OPERATIONS
DIRECTOR, AIR NATIONAL GUARD
CHIEF, AIR FORCE RESERVE

FROM: SAF/MR
1660 Air Force Pentagon
Washington, DC 20330-1660

SUBJECT: Civilian Reemployment Protections for Department of the Air Force Military Personnel

References: (a) DoDI 1205.12 *Civilian Employment and Reemployment Rights for Service Members, Former Service Members, and Applicants of the Uniformed Services*, 24 February 2016
(b) SAF/MR Memorandum, Subject, *Civilian Reemployment Protections for Air Force Military Personnel*, 10 October 2018
(c) OASD (RI) Memorandum, Subject, *Required Uniformed Services Employment Rights Act Verbiage on Qualifying Reserve Component Orders*, 21 June 2018

This memorandum clarifies the current policy regarding members' rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA), Title 38, United States Code (U.S.C.), Chapter 43, and supersedes Reference (b). USERRA provides protection to uniformed service members absent from civilian employment when specific conditions are met.

Under the authority delegated by the SecAF, I determine the following periods of service are exempt from the five-year limit:

a. Periods of service performed by an Air Reserve Component (ARC) member ordered to or retained on active duty under 10 U.S.C. §12301(d) on or after 14 September 2001, for the purpose of providing direct or indirect support of missions and operations associated with the National Emergency, declared by Presidential Proclamation 7463, dated 14 September 2001, and successive continuations. The basis for the order must be linked to the war or national emergency.¹

b. Periods of service performed through in-residence Developmental Education (DE).² This exemption is based on the authority of 38 U.S.C. §4312 (c)(3), which exempts the service of a

¹ Linkage to the National Emergency may be shown by one or more various indicia, including citation to Presidential Proclamation 7463; or, to Executive Order 13223; or to a named operational mission associated with the National Emergency. In most cases, members ordered to duty under 10 U.S.C. §12301(d), but serving under 10 U.S.C. §12310 (AGR duty); 10 U.S.C. §10211, or 10 U.S.C. §12402 will not fit this criteria.

² Approved in-resident DE is found in DAFI 36-2670, *Total Force Development*, 7 December 2020, (incorporating DAFGM 2020-03, dated 12 October 2021).

member who performs duty necessary for professional development and certifies the approved DE in accordance with Reference (a).

c. Periods of service when an ARC member performs duty for the completion of skill training or retraining (to include Seasoning Training) upon the completion of Air Force Specialty Code awarding training. This exemption is for duty performed for all Technical and Professional training based at school houses or formal courseware listed in the Air Force Education and Training Course Announcements.

SAF/MR may approve additional exemption requests for periods of service when ARC members are ordered to active duty in support of a critical mission or critical requirement (as defined in DoDI 1205.12, Enclosure 2, paragraph b (4)(c)), but must be employed judiciously. *These exemption requests will not be used to routinely extend reemployment rights or to extend individuals in repeated statutory or Active Guard Reserve (AGR) tours.* Individual exemptions will not be granted if the member has sufficient cumulative five-year service limit time remaining to complete the term of duty.

Commanders must remain vigilant to potential hardships to employers when approving short notice military orders. I ask each commander to consider the impact on employers when determining whether training must be accomplished during peak work cycles within various industries and employment sectors. Finally, I ask Department of the Air Force leaders at all levels to continue to maintain balance between mission, civilian employment, and family in order to better sustain a healthy operational reserve.



JOHN A. FEDRIGO
Acting Assistant Secretary
(Manpower and Reserve Affairs)

Attachment:
DAF Checklist

DAF Checklist – USERRA Exemption requests

In order for an Air Reserve Component (ARC) member to seek Service Secretary (Air & Space Force) USERRA exemption approval, the individual must exhaust 5-year limit (or be within last year) and submit the following waiver package request to:

- 1) ARC member prepares initial package for NGB/A1P or AF/RE – include Supervisor Request Memo and the Individual's Orders (must attach orders for previous five-year exhausted periods, any previous MR exemption (if applicable), and the current requested exemption period)
- 2) NGB/A1P or AF/RE – prepares package for TMT (creates eSSS, preps for Guard or Reserve legal review, obtains Guard or Reserve endorsement memo, sends to MRR)
 - ANG GOs coordinate with SLMO (Lt Col Ralph Cole ralph.cole.1@us.af.mil)
 - ANG O-6 and below with NGB/A1PS ngb.a1.a1ps.org@us.af.mil
 - AF/RE Ms. Toni Gross HAF/REP toni.gross@us.af.mil
- 3) NGB/GC or RE/JA – provides ARC legal review
- 4) ANG or RE leadership – endorses member request in memo
- 5) SAF/MRR – prepares approval/disapproval letters for MR signature and reviews package
 - Guard Advisor: Col Micaela Brancato micaela.brancato.2@us.af.mil
- 6) SAF/GC – provides legal review before MR signs
- 7) SAF/MRR – prepares final package for MR signature
- 8) SAF/MR – signs approval/disapproval memo
- 9) ANG & RE POCs keep MR signed approval/disapproval memo on file to track exemptions

Include these TABS:

1. eSSS for TMT
2. Supervisor Request Memo
3. ANG or RE Request Memo, Dated (signed by CNGB/DANG or RE)
4. ANG or RE Legal Review, Dated (from NGB/GC or RE/JA)
5. Member Orders (show five-year exhausted and for requested exemption period)
6. Approval Letter
7. Disapproval Letter

Resources:

DoDI 1205.12: Civilian Employment and Reemployment Rights for Service Members, Former Service Members and Applicants for the Uniformed Services (24 Feb 16)

OSD Memo: Required USERRA verbiage on Qualifying Reserve Component Orders (21 Jun 18)

DAF Memo: Civilian Reemployment Protections for Department of the Air Force Military Personnel (27 Jan 22)

USDOL Fact Sheet – www.dol.gov/agencies/vets/programs/userra