

## **Uniformed Services Employment Rights**

Under the Uniformed Services Employment and Reemployment Rights Act (USERRA) (38 U.S.C. §§4301- 4333), qualifying members of the uniformed services are entitled to re-employment and other restoration of employment rights. These rights are potentially available to service members so long as their military active duty has not caused them to be absent from their job for more than a total of five years. To qualify for these rights, the service member's employer must have received advance notice of the service member's leaving for active duty and the service member must promptly apply for re-employment upon leaving active duty with an honorable or general discharge. This legislation applies to the University (as an entity of the State of Alabama), as it does to all private employers and all branches of the federal government.

The advance notice to the employer of the service member's leaving for active duty can be given by the service member or by his/her unit, and it may be either written or oral. Notice is not required if military necessity prevents it or, if it is otherwise impossible or unreasonable to provide it. When leaving for active duty, the employee may elect to continue employer-related health insurance coverage. In computing how long a service member has been gone from his/her job, military service such as most periodic and special reserve and National Guard training, most service in time of war or emergency, and involuntary extensions on active duty are excluded. The time within which the service member must report for work upon completing the period of military service varies depending upon the length of that service. It can be as short as 8 hours after returning home or as long as 90 days after completion of military service. These deadlines can be extended for up to 2 years during hospitalization or convalescence due to a service-connected illness or injury.

When a service member who provided the required advance notice returns to work in timely fashion, he/she is entitled to prompt reinstatement; restoration of seniority and status at the level which he/she would have attained had he/she remained continuously employed; reinstatement of health benefits without a waiting period or an exclusion for pre-existing conditions (other than for VA-determined service-connected conditions); restoration of pension rights based upon absence for military service, with up to five years allowed to make up lost contributions to contributory pension plans; and protection (once re-employed) from discharge without cause for up to six months. Employment discrimination (hiring, retention, promotion, reemployment, termination, and benefits decisions) based on past, present, or future military obligations is prohibited. Employers may not take adverse employment action against a person because they assert their rights under USERRA, testify or assist in a USERRA investigation, or take enforcement action under USERRA. Reprisals against non-veterans who assist veterans are also prohibited.