



VETERANS GUIDE





Dear Veteran,

Almost a quarter of the active and retired members of the National Association of Letter Carriers are veterans, just like you. Having exchanged your military uniforms for letter carrier uniforms, you continue to serve your community and this great nation.

The NALC Veterans Group was created in 2015 to provide access to information and tools specific to veterans' rights and benefits within the Postal Service. It seeks to provide all NALC military veterans—active as well as retired letter carriers—with resources, information and a sense of camaraderie.

As part of that goal, NALC also developed this *Veterans Guide* as a quick reference for valuable information relating to military service and the Postal Service.

This guide contains various topics of interest to veterans, including the *Uniformed Services Employment and Reemployment Rights Act (USERRA)*, *Wounded Warriors Leave (WWL)*, the *Veterans' Preference Act of 1944* and retirement credit for military service. The guide also discusses several National Agreement provisions and Memorandums of Understanding (MOUs) that apply specifically to military veterans. Employees can review these and other "M-documents" in the Materials Reference System (MRS) on the NALC website at nalc.org/workplace-issues/resources/materials-reference-system. Members are encouraged to explore the MRS for information on these and many other subjects important to letter carriers.

NALC appreciates the contributions and sacrifices of military veterans and their families. On behalf of the entire membership, thank you for your service.

Sincerely and Fraternaly,

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NALC Veterans Group

Veterans share valuable experiences and traits, including discipline, focus, and sacrifice. As letter carriers and NALC members, Veterans Group members have a common employer (USPS), the same labor Union (NALC), and continue to provide a valuable service to America. Their common bond of experiences and skills allows them to support each other as no other group or single person could. The NALC Veterans Group was launched in September of 2015 to provide opportunities for active and retired NALC members who are also military veterans to connect with fellow NALC veterans and stay informed on important issues.

As letter carriers embedded in their local communities, their continued service to the public fosters a familiar and genuine pride. Many have joined veterans' organizations, finding comfort and camaraderie with others who have served. Others work as volunteers in their communities—for both veteran and non-veteran causes and events. With a focus on teamwork, compassion, and purpose, the Veterans Group embraces the shared values of NALC members who served in the military.

The Military Veterans tab on the Member Benefits menu of the NALC website includes a general directory of veteran groups and organizations, and posts upcoming volunteer opportunities that specifically assist/honor veterans. More information is available on the NALC website at nalc.org/member-benefits/military-veterans.

To speak with someone about the NALC Veterans Group, the community services coordinator is available at (202) 662-2489. NALC Veterans Group members receive a pin as a symbol of gratitude for their military service and membership in NALC. To join, veterans can complete the enclosed card (or the fillable version available at nalc.org/veterans) and mail it to:

NALC Veterans Group
National Association of Letter Carriers
100 Indiana Ave., NW,
Washington, DC 20001-2144

Legislation

On Capitol Hill, lawmakers are constantly debating issues and considering proposals that can affect veterans and letter carriers. Naturally, NALC keeps a close eye on legislative activity to anticipate potential effects on members. Often, forces opposed to letter carrier interests propose legislation designed to undermine decades of progress the labor movement and NALC have achieved.

NALC has historically been successful defending against attacks in Congress that threaten letter carriers' collective-bargaining rights, retirement benefits, and livelihood. We want to continue helping to elect House and Senate candidates who will protect our rights and benefits, promote our issues, and deliver our message to Washington. To continue our political success, NALC relies on members who, along with expressing concerns about upcoming legislation to their representatives in the House and Senate, contribute what they can to the Letter Carrier Political Fund (LCPF).

Fortunately, veterans have significant influence in Washington on issues such as retirement, social security and health care benefits, hiring preference, right to work, veterans' programs, or proposals that affect the Department of Veterans Affairs. When veterans call, legislators take careful notice. This gives veterans a strong voice when they need to contact their senators and congressional representatives to encourage them to act on proposed legislation.

Often, however, phone calls and letters are not enough, and more extensive measures are needed. This is where LCPF comes in. LCPF is a non-partisan political action committee (PAC) fund established for the purpose of electing qualified candidates who support letter carriers and who are committed to maintaining a strong and innovative U.S. Postal Service.

A healthy and vibrant LCPF allows us to support letter carrier-friendly candidates and incumbents from both parties who have demonstrated their support for a strong, affordable, and universal Postal Service and for the collective-bargaining rights of workers.

Since union dues cannot be used to support candidates for political office, NALC relies entirely on member contributions to LCPF to support those on Capitol Hill who defend the issues that matter most to us. Our PAC brings together in Washington strong letter carrier advocates—from all political parties—who are dedicated to helping promote USPS product innovation and expand service. While all contributions are valuable and appreciated, members who sign up to contribute automatically every pay period or month improve the ability of LCPF administrators to accurately budget and to most effectively allocate funds.

NALC's Legislative and Political Affairs department monitors legislation that affects letter carriers and veterans. There are many legislative resources available for veterans to stay connected. Information and updates on the important issues affecting NALC military veterans are found at www.nalc.org/government-affairs and the NALC Member App Government Affairs tab.

Veterans' Preference Act of 1944

Many of the sacrifices made by service members are readily apparent (time away from their families, risks of personal injury, etc.), but not always. Members of the armed forces also forego the opportunity to advance in a civilian career so they can serve their country. The resulting lack of experience in a civilian field often places them at a disadvantage when seeking employment upon their return from military service.

Congress passed the *Veterans' Preference Act of 1944* to ensure veterans' military service would not hinder their employment prospects upon their return to civilian life. The Act originally required the federal government to favor returning war veterans when hiring new employees, but over the years, its protections have expanded to include other veterans meeting eligibility requirements, irrespective of whether they served during a war. When needed, the Act provides strong protection for those who chose to serve our country at the expense of their civilian careers.

Veterans' Preference in Hiring

The Act grants preference in hiring to military veterans who meet certain qualifications and achieve a passing score on employment entrance examinations. To qualify, veterans must be discharged under honorable conditions and meet the criteria for one of the preference categories. Veterans must have either sustained a service-connected disability, served during the specific periods listed in Handbook EL-312, *Employment and Placement*, or qualified under the "sole survivorship discharge" criteria in Section 483 of Handbook EL-312.

Individuals entitled to veterans' preference have up to ten points added to their passing test scores, depending on the preference eligibility category, which in turn depends on the individual's military service as explained in Sections 411 and 483 of Handbook EL-312:

Compensable 30 Percent Preference (CPS)

This code indicates that the individual claims a 10-point preference and has a compensable service-connected disability that is 30 percent or more.

Compensable Disability Preference (CP)

This code indicates that the individual claims a 10-point preference and has a compensable service-connected disability that is at least 10 percent but less than 30 percent.

Disability Preference (XP)

This code indicates that the individual claims a 10-point preference and (1) has received a Purple Heart, or (2) has a current service-connected disability or is receiving compensation, disability retirement benefits, or pension from the military or the Department of Veterans Affairs, but does not qualify as a CP or CPS.

5-Point Preference (TP)

This code indicates an individual claims a 5-point preference based on qualifying military service. Persons claiming 5-point veterans' preference must have been discharged or released from active duty service in the armed forces under honorable conditions and have served in one of the following situations found in Exhibit 483 on page 79 of Handbook EL-312:

- a. *During a war.*
- b. *During the period April 28, 1952, through July 1, 1955.*
- c. *For more than 180 consecutive days, other than for training, any part of which occurred after January 31, 1955, and before October 15, 1976.*
- d. *During the Gulf War from August 2, 1990, through January 2, 1992.*
- e. *For more than 180 consecutive days, other than for training, any part of which occurred during the period beginning September 11, 2001 and ending August 31, 2010.*
- f. *In a campaign or expedition for which a campaign medal has been authorized. Any Armed Forces Campaign or Expeditionary Medal qualifies for preference.*

A campaign medal holder or Gulf War veteran who originally enlisted after September 7, 1980, (or began active duty on or after October 14, 1982, and has not previously completed 24 months of continuous active duty) must have served continuously for 24 months or the full period called or ordered to active duty.

No-Point Preference (SSP)

This code indicates that an individual claims preference who was discharged or released under honorable conditions from a period of active military duty after August 29, 2008, by reason of sole survivorship. A sole survivor discharge is defined as the separation of a member from the armed forces, at the request of the member, who is the only surviving child in a family in which the father, mother, or one or more siblings:

- a. Served in the armed forces; and*
- b. Was killed; died as a result of wounds, accident, or disease; is in a captured or missing in action status; or is permanently 100 percent disabled or hospitalized on a continuing basis and, as a result, is not employed gainfully; and*
- c. Death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence; and*
- d. The member served in one of the situations described in Exhibit 483 and would have met the time period if the sole survivorship discharge or release had not interrupted military service.*

Example: *There is a requirement of 24 months of continuous active duty service, or the full period called to active duty, for a campaign medal holder or Gulf War veteran who enlisted after September 7, 1980 (or began active duty on or after October 14, 1982, and had not previously completed 24 months of continuous active duty). An individual would still be entitled to preference eligibility if the following applied:*

- Active duty is cut short at fewer than 24 months by a sole survivorship discharge or release; and*
- Individual meets the other requirements for veterans' preference eligibility.*

Note: *Although these veterans receive no points added to their entrance examination score, they are still entitled to preference over non-veterans with the same score.*

Applicants who claim veterans' preference are responsible for providing the supporting documentation to the Postal Service so the proper category may be determined. Applicants should provide this documentation as early as possible to avoid delays in the hiring process. According to Section 484.1 of Handbook EL-312, to determine the proper category USPS should review and compare the following:

- a. PS Form 2591, Application for Employment.*
- b. DD Form 214, Certificate of Release or Discharge From Active Duty, or other official documents issued by the branch of service that certifies the service member is expected to be discharged or released from active duty service in the armed forces under honorable conditions. This must occur no later than 120 days after the date the certification is submitted for consideration in the hiring process.*
- c. Standard Form (SF) 15, Application for 10-Point Veteran Preference, and supporting documents.*
- d. Letters or certificates from the Department of Veterans Affairs and statements or retirement orders issued by a branch of the Armed Forces to substantiate entitlement to the preference claimed.*

Once the Postal Service adjudicates the veterans' preference claim, it returns any original documentation provided by the applicant in support of the claim.

Applicants who claim veterans' preference status involving a disability need not provide information related to the nature of the disability. If a decision letter from the Department of Veterans Affairs containing medical information is provided, it must be returned to the applicant once the proper category is determined.

Applicants who fail to provide proof of entitlement at the time of application are not disqualified. However, claimed veterans' preference points are deducted if the claim cannot be adjudicated favorably by the time of selection.

Veterans who claim TP preference based on an Armed Forces Campaign or Expeditionary Medal may submit a copy of their DD-214 as proof of the award of the medal. It is not necessary for the form to show the name of the theater or country of service for which the medal was awarded. A complete list of campaigns and expeditions is contained in Exhibit 485 of Handbook EL-312.

After veterans' preference points are added to the test score, applicants are organized on the hiring list based on the language in Section 441 of Handbook EL-312:

441.1 Group 1, Applicants Claiming Preference Based on Compensable Disability.

Applicants who claim 10-point preference based on a compensable military service-connected disability of 10 percent or more are arranged at the top of the Hiring List in descending order of final numerical rating in this group.

441.2 Group 2, All Other Eligibles in Order.

All other eligibles are placed in the following order:

- a. Applicants claiming other 10-point preference (XP) and applicants claiming 5-point preference (TP) are placed ahead of nonpreference eligible applicants with the same final rating.*
- b. XP eligibles are placed ahead of TP eligibles with the same final rating.*

Applicants are hired based on where they are placed on the hiring list with Group 1 applicants placed ahead of those in Group 2.

The rules governing relative standing and veterans' preference are addressed in the *Questions and Answers - 2011 USPS/NALC National Agreement (M-01870)*:

62. How are the provisions of Article 41.2.8.6.(a) referenced in Appendix B. I. GENERAL PRINCIPLES. Section f of the National Agreement applied when determining a CCA's relative standing?

If more than one CCA is appointed on the same day, the relative standing will be determined by the order on the hiring list. If CCAs are hired from more than one hiring list on the same day, relative standing will be determined by applying the rules in Handbook EL-312, Section 441, Basic Order:

- 1) Applicants who claim 10-point preference based on a compensable military service-connected disability of 10 percent or more are arranged at the top of the relative standing list in descending order of final numerical rating in this group.*
- 2) Applicants claiming other 10-point preference (XP) and applicants claiming 5-point preference (TP) are placed ahead of non-preference eligible applicants with the same final rating.*
- 3) XP eligibles are placed ahead of TP eligibles with the same final rating.*

To resolve any ties, numerical by the last three or more numbers (using enough numbers to break the tie, but not fewer than three numbers) of the employee's social security number, from the lowest to highest.

"Final numerical rating" and "final rating" as referenced above are determined by adding the individual's score on the entrance exam and any applicable veterans' preference points.

The final numerical ranking also determines hiring order and seniority of employees hired directly to career positions. The rules governing tiebreakers in this case are similarly found in Section 441 of Handbook EL-312.

Relative standing is the determining factor when the need to convert CCAs arises in an installation. These issues are also addressed in M-01870:

77. When there is a career conversion opportunity for a CCA, how are CCA employees converted?

CCAs are offered conversion opportunities to full-time regular on a highest to lowest relative standing order basis within an installation.

67. How is a tie addressed when more than one employee is placed in full-time career city letter carrier duty assignments in an installation on the same date through either transfer/reassignment or CCA conversion to full-time?

Placement on the seniority list is determined by the following:

- *If two or more full-time career assignments in an individual installation are filled on the same date by only CCAs, placement on the career city letter carrier craft seniority list will be determined based on the relative standing in the installation.*
- *When two or more full-time career assignments in an individual installation are filled on the same date by only career employees through reassignment/transfer, placement on the city carrier craft seniority list will be determined by application of Article 41.2.B. 7 of the National Agreement, as appropriate.*
- *Current career employees will normally be placed ahead of CCAs on the seniority list when two or more full-time career assignments are being filled in an individual installation on the same date from both reassigned/transferred and CCA employees. An exception may occur when the CCA(s) with the highest relative standing has previous career service. In such case the CCA(s) will be placed ahead of the career employee only if he/she is determined to be senior to the transferred/reassigned employee by application of Article 41.2.B. 7 of the National Agreement. In no case will a CCA with lower relative standing be placed on the seniority list ahead of a CCA with higher relative standing who is converted to career on the same date in the installation.*

Employees with questions regarding veterans' preference, relative standing, and seniority should review Handbook EL-312, M-01870 in the Materials Reference System (MRS), and the National Agreement, all of which are available on the NALC website at nalc.org/workplace-issues/resources. Veterans should contact USPS Human Resources Shared Services Center (HRSSC) at (877) 477-3273 and select option 5 if they believe their veterans' preference eligibility category is incorrect, or if it changes during their employment.

Additional information regarding veterans' preference is also available on the following websites from other government agencies:

Office of Personnel Management:

www.opm.gov/policy-data-oversight/veterans-services/vet-guide-for-hr-professionals/

Office of Personnel Management:

www.fedshirevets.gov/job-seekers/veterans/

Department of Labor:

<https://webapps.dol.gov/elaws/vetspref.htm>

Department of Veterans Affairs:

www.va.gov

Retirement Credit for Military Service – “Military Buy-Back”

Financial advisors consistently advise employees to begin preparing for retirement very soon after they begin working. Letter carriers are wise to follow that advice as well. One of the factors postal employees must consider is the annuity they will receive in retirement. The amount of this annuity is based on two factors: the basic pay earned over the employee’s three highest consecutive years of service, and the total years of creditable service. As each of these factors increases, the amount of the retirement annuity also increases.

Determining years of creditable service is often as simple as adding up the years worked as a career employee for the Postal Service. However, eligible veterans have a special opportunity to increase their creditable service by adding the amount of time they served in the military to their time in the Postal Service. This is done by “buying back” or “making deposit for” their military time

Military veterans who were discharged under honorable conditions and who are converted to career status in the Postal Service should carefully consider obtaining retirement credit for time served in the military. Since years of service can be increased by obtaining credit for military service, the financial benefits can be significant. It is important for veterans to weigh the costs of obtaining credit for their military service against the benefits they will receive upon retirement.

The amount of the deposit and the resulting retirement annuity increase depend on whether the employee is covered under the Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS), in addition to years of military service and the employee’s earnings during those years.

- For employees covered by FERS, the cost of making deposit for military time is **three (3)**¹ percent of the basic pay earned during the period of military service, plus interest (depending on when the deposit is paid).
- For employees covered under CSRS, the cost of making deposit for military time is **seven (7)**² percent of the basic pay earned during the period of military service, plus interest (depending on when the deposit is paid).

The retirement annuity financial benefit of a FERS employee who makes a deposit for military service and retires before age 62 or has fewer than 20 years of creditable service is 1 percent of the employee’s high-3 average annual salary times years of creditable service. That benefit increases to 1.1 percent if the employee waits until age 62 to retire and has at least 20 years of creditable service.

The CSRS benefit calculation formula is 1.5 percent times the first five years of service, plus 1.75 percent times the next five years of service, plus 2 percent for each year of service after the first 10 years, times the high-3 average annual salary. Therefore, a veteran who has more than 10 years of service with the Postal Service will receive an annuity increase of 2 percent of the high-3 average annual salary for each year of military service “bought back.”

In addition to the financial benefit, military time a veteran buys back also counts toward *eligibility* to retire, meaning a veteran who completes deposit for military service may be able to retire sooner than a non-veteran with the same Postal Service enter-on-duty date.

There are important basic rules for veterans to make deposit for military time. Many are identical for FERS and CSRS employees, but there are some differences:

1. *Military service performed prior to Jan. 1, 1957, is creditable for retirement without payment. No deposit is required for this service to be creditable.*
 - a. *For FERS employees, military service performed after Dec. 31, 1956, is creditable only when a deposit is made.*

¹ The FERS deposit is 3.0% of the military basic pay for service prior to 1999. The rate increases to 3.25% for service performed in 1999 and to 3.4% for 2000. For service after 2000, the rate returns to 3.0%.

² The CSRS deposit is 7.0% of the military basic pay for service prior to 1999. The rate increases to 7.25% for service performed in 1999 and to 7.4% for 2000. For service after 2000, the rate returns to 7.0%.

- b. *For CSRS employees, an individual first employed in a position covered by CSRS on or after Oct. 1, 1982 must make a deposit in order to receive retirement credit for post-1956 military service.*
 - c. *An individual first employed in a position covered by CSRS before Oct. 1, 1982, may receive credit for post-1956 military service if he or she retires from civilian service prior to age 62, without making deposit. However, if the employee does not make a military service deposit, the time of military service is factored out of the computation of CSRS benefits when the employee reaches age 62, if the employee is entitled (or upon application would be entitled) to Social Security benefits at that time.*
2. *Full payment of the required deposit must be made prior to separation from the Postal Service.*
 3. *The deposit must be paid directly to the Postal Service.*
 4. *There is a two-year interest-free grace period on all military deposits. After the two-year grace period, interest is accrued and compounded annually. No interest is charged if the deposit is completed prior to three years from the date the employee first became covered under either FERS or CSRS. For CSRS employees first employed prior to Oct. 1, 1983, interest started accruing Oct. 1, 1985.*
 5. *Interest is charged at a rate determined by the Secretary of the Treasury for each calendar year.*
 6. *Receipt of military retired pay bars the crediting of military service toward a FERS or CSRS annuity, unless 1) the veteran waives the military retired pay and makes deposit for the years of military service, 2) the military retired pay was awarded for a service-connected disability incurred in combat with an enemy of the United States, or caused by an instrumentality of war and incurred in the line of duty during a period of war, or 3) the military retired pay was based on certain non-regular service pertaining to retirement from a reserve component of the Armed Forces (see 10 USC 67 and 10 USC 1223).*

A complete explanation of the rules governing military buy-back are found on the Office of Personnel Management (OPM) website at <https://www.opm.gov/retirement-services/publications-forms/csrsfers-handbook/>.

To begin the process of making the deposit for military time, veterans should call the USPS Human Resources Shared Services Center (HRSSC) at 877-477-3273, Option 5. The Postal Service will provide the employee with Standard Form (SF) 3108, *Application to Make Service Credit Payment* (if the veteran is covered under FERS) or SF 2803, *Application to Make Deposit or Redeposit* (if the veteran is covered under CSRS). Upon receipt of the completed SF 3108 or SF 2803 the Postal Service will obtain documentation of the veteran's military pay records, calculate the three percent³ (FERS) or seven percent⁴ (CSRS) deposit (with the annual interest rates if applicable), and advise the employee of the dollar amount required. Veterans can pay the deposit as a lump sum (which will be necessary if retirement is near) or in installments through payroll deductions. All deposits must be made prior to retirement.

Most veterans will find the financial benefits of making the deposit far outweigh the costs. This is true for several reasons. The cost is calculated only on the pay earned during the years in the military (plus interest in some cases), but the additional percentage added to the annuity is applied to *all* the creditable years of federal service. In addition, for most veterans, the pay received in the military will have been considerably less than end-of-career pay in the Postal Service, so the deposit amount is based on the lower military pay while the retirement benefit is applied to the higher Postal Service pay. Finally, the deposit is a fixed amount, while the annuity will continue for the lifetime of the retiree (and the lifetime of his or her spouse if survivor benefits are elected at retirement).

On occasion, an employee will temporarily leave the Postal Service to perform military service. The *Uniformed Services Employment and Reemployment Rights Act of 1994* (USERRA) deals with employment rights of postal employees who leave their jobs to perform military service. USERRA is explained in detail in the next section.

³ The FERS deposit is 3.0% of the military basic pay for service prior to 1999. The rate increases to 3.25% for service performed in 1999 and to 3.4% for 2000. For service after 2000, the rate returns to 3.0%.

⁴ The CSRS deposit is 7.0% of the military basic pay for service prior to 1999. The rate increases to 7.25% for service performed in 1999 and to 7.4% for 2000. For service after 2000, the rate returns to 7.0%.

The Office of Personnel Management issued Benefits Administration Letter 95-101 to explain how to handle deposits for military service in those situations:

In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service.

Thus, under both CSRS and FERS, in computing the military deposit for service meeting the described criteria, the Postal Service must make two calculations:

- (1) 3% or 7% of the military basic pay, and
- (2) an alternative calculation of what the CSRS or FERS employee contributions would have been for the civilian service had the individual not entered into the military.

USERRA provides guidance as to how the Postal Service should compute the civilian base pay. If it is possible to determine what the employee's base pay would have been for the period of absence (including locality pay, premium pay which constitutes basic pay, promotions, annual increases, step increases and other base pay increases to which the individual would have been entitled) then those rates should be used. However, if it is not reasonably possible to determine what the individual's base pay would have been for the period of absence, then the rate of pay to be used is the average rate of base pay during the 12-month period immediately preceding the absence (or, if shorter, the period of employment immediately preceding the absence).

In all other cases, that is, where military service did not interrupt creditable civilian service, or where there was not reemployment pursuant to 38 United States Code Section 43 that occurred on or after August 1, 1990, then the prior deposit rules apply. It will be up to the employing agency to ascertain whether the criteria apply and to make all calculations.

For both FERS and CSRS employees, the regulations require the employee to complete the deposit prior to retirement. However, a veteran whose deposit for military service is not completed prior to retirement because of a Postal Service administrative error or incorrect advice can write to OPM and request belated deposit. OPM will investigate and allow or deny the request. If OPM denies the request, it can then be appealed to the Merit Systems Protection Board (MSPB). Standard Forms 3108 and 2803 provide specific instructions for veterans to follow. For more information on obtaining credit for military service, veterans are encouraged to visit <https://www.opm.gov/retirement-services/>.

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)

In an earlier section, this guide discussed how the *Veterans' Preference Act of 1944* protects veterans from having their military service hinder their civilian employment prospects. For similar reasons, veterans and reservists employed by the Postal Service have always had strong legal rights and protections regarding reemployment when they leave their jobs to perform military service. However, in response to challenges veterans faced during and after the 1991 Gulf War, Congress revised and strengthened these protections in the *Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)*. The statute became effective on December 12, 1994, and some provisions of USERRA relating to benefits were made retroactive to August 1990.

USERRA protects the job rights of individuals who, either 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.

Questions about USERRA rights most frequently arise concerning military reservists and National Guard members who are called to active duty. However, as explained below, USERRA regulations also address the rights of letter carriers who *enlist* in the military.

The primary source for Postal Service regulations implementing USERRA rights is Section 77 of Handbook EL-312, *Employment and Placement*, which is available on the NALC website at www.nalc.org/workplace-issues/resources/usps-handbooks-and-manuals.

Eligibility

USERRA extends reemployment rights to employees who are absent from work to serve on active duty in the uniformed services for up to a total of five years (subject to certain exceptions). For purposes of applying these rights, "uniformed services" consist of the following military branches: Army, Navy, Marine Corps, Air Force, Coast Guard, their respective reserve components and the Army and Air National Guard; Commissioned Corps of the Public Health Service; and any other category of persons designated by the President of the United States as uniformed service in time of war or emergency.

The types of uniformed service protected under USERRA include active duty, active duty for training (including initial training), inactive duty training, full-time National Guard duty, or time needed to attend an examination to determine fitness for any of the above types of duty. These are protected whether the employee performs them voluntarily or involuntarily.

Section 771.2 of Handbook EL-312 provides the following guidance on the five-year limitation and the exceptions to it:

771.2 Duration of Uniformed Service

Under USERRA, the cumulative length of absence from employment because of military service is limited to 5 years. The following are exceptions to this limit:

- a. Service required in excess of 5 years to complete the initial period of service obligation.*
- b. Service from which a person, without control over the circumstances, is unable to obtain release.*
- c. Required training for reservists and National Guard members. This training includes inactive duty drills, active duty training periods, and any additional training mandated as essential to the professional development of service members by a specific secretary of a uniformed service.*
- d. Service required under an involuntary order to active duty or to be retained on active duty because of domestic emergencies or national security matters.*
- e. Service as a result of an order to active duty or to remain on active duty during a war or a national emergency declared by the President or Congress.*

- f. *Active duty performed in support of an operational mission for which selected reservists have been involuntarily activated.*
- g. *Active duty performed in support of a critical mission or critical requirement during the time of no involuntary call-up, no war, or national emergency. The Secretary of a uniformed service has the authority to designate a military operation as a critical mission or requirement.*
- h. *Federal service by members of the National Guard called into action by the President to suppress an insurrection, repel an invasion, or execute the laws of the United States.*

The status and rights of employees while on military duty are also covered in Handbook EL-312 and are summarized in the next section.

Status While on Military Duty

Employees called to active duty in the reserves or National Guard are placed in a leave without pay (LWOP) status until their return. Employees enlisting in the military have the following options:

- They may be placed in an LWOP status for up to five years; or,
- They may exercise a written option to resign with the intention of not returning to the Postal Service. In such cases, they must be advised that their restoration rights are not affected by the resignation.

Contractual Rights While on Military Duty

Employees serving on active duty in the military have the following contractual rights:

- While on LWOP for military service, employees continue to accrue uninterrupted seniority.
- Full-time letter carriers on LWOP for military service are covered by Article 41, Section 1.B.1 of the National Agreement, which provides in pertinent part:

When an absent employee has so requested in writing, stating a mailing address, a copy of any notice inviting bids from craft employees shall be mailed to the employee by the installation head.
- Employees on LWOP for military service are an exception to the memorandum on telephone and computer bidding. They may submit written bids even if telephone or computer bidding is otherwise required in an installation. Remember, however, that the contractual time limits for the submission of bids still apply.
- Any bids submitted should be processed and awarded under the provisions of Article 41, just as if the employee were actively employed. If a bid is awarded, a personnel action must be initiated to place the employee in the newly gained position and pay scale and to assure that seniority is credited in accordance with Article 41 until the employee resumes active employment upon return from the military service.
- Bid positions held by or awarded to employees on military service are not posted for bid under the provisions of Article 41, Section 1.A.1. Rather, they are temporary vacancies and may be filled under the opting provisions of Article 41, Section 2.B.3-5 or the provisions of Article 25, as applicable.
- While on LWOP for military service, employees remain in the bargaining unit. They may file grievances or have grievances filed and processed on their behalf.

Employees Who Resign for Military Service

Employees who elect to resign from the Postal Service, rather than electing to be in an LWOP status during their military service, are *no longer* members of the bargaining unit. The employee relinquishes their bid assignment, which is then vacated and posted for bid under the provisions of Article 41, Section 1.A.1. They do not have bidding rights while on active military duty.

Reemployment Rights

Section 771.5 of Handbook EL-312 requires employees to notify the supervisor ahead of an absence due to a military obligation:

771.5 Advance Notification of Entering the Uniformed Services

To ensure entitlement to reemployment and benefits, employees must give their immediate supervisor reasonable notice of the impending absence from work because of service in the uniformed services. The advance notice can be given by the employee orally, in writing, or:

- a) Notification can also be made orally or in writing by the employee's military command. This situation may arise if military necessity prevents the employee from giving notification.*
- b) No advanced notice is required if it is precluded by military necessity, or it is otherwise impossible or unreasonable to give notice.*

Section 773 of Handbook EL-312 explains that the time limit for reporting to work following an absence for military duty depends on the length of the military service:

- a. **Service of 1 to 30 days.** The employee must report by the beginning of the first regular scheduled day of work following 8 hours after return home from the military service. If an employee's return to work within this time frame is unreasonable or impossible, and he or she is not at fault for the delay, the employee must return to work as soon as possible.*
- b. **Service of 31 to 180 days.** A written request for return to duty must be submitted no later than 14 days after the employee's completion of the military service. If submission of written request for return to duty is impossible or unreasonable through no fault of the employee, it must be submitted as quickly as possible.*
- c. **Service of 181 or more days.** A written request for return to duty must be made within 90 days from the date of discharge.*

Note: *Individuals who fail to request return to duty in writing within the above specified time frames do not forfeit their rights automatically. However, they are subject to discipline because of unexcused absences.*

- d. **Service-connected hospitalization or convalescence.** Members of the uniformed services, who are hospitalized or convalescing because of a service-connected disability incurred during active service, are required to return to work once recovered. They are to report or apply in accordance with their length of service as stated in a, b, and c above. The normal recovery period may not exceed 2 years. However, the 2-year period will be extended in order to accommodate circumstances that prevented the returnee from reasonably reporting or applying. This extension will be of minimum duration to reasonably resolve the difficulty beyond the returnee's control.*

Other Rights

The seniority of letter carriers who are reemployed following military service is governed by Article 41, Section 2.D.2, which provides:

Letter carriers who enter the military shall not have their seniority broken or interrupted because of military service.

Unlike members of the other postal bargaining units, reinstated letter carriers' uninterrupted seniority is restored even if they return to a different installation than the one they left.

Service members are entitled to the same rights and benefits available to employees on a nonmilitary leave of absence. Furthermore, they are entitled to any non-seniority rights and benefits that became effective during their service time. These rights include, but are not limited to, Federal Employee Health Benefits (FEHB), Federal Employees' Group Life Insurance (FEGLI), flexible spending accounts (FSA), retirement (CSRS or FERS), and Thrift Savings Plan (TSP).

Enforcement of USERRA Rights

USERRA prohibits discrimination against an applicant or an employee based on service in the uniformed services and prohibits acts of reprisal for exercising a right stipulated in its provisions or for seeking its enforcement. The remedy for violations of USERRA may include the award of back pay, lost benefits, and legal costs. Employees and applicants seeking enforcement of their USERRA rights may file a complaint with the Veterans' Employment and Training Service (VETS) of the Department of Labor, which is responsible for investigating and resolving complaints. If VETS cannot successfully resolve the complaint, VETS may ask the U.S. Office of Special Counsel to represent the employee or applicant in an appeal before the Merit Systems Protection Board (MSPB). Further, the employee or applicant may bypass VETS and appeal directly to the MSPB.

The application of USERRA regulations can be complex and problems may arise. Letter carriers enlisting or called to active duty in the military should study their rights and discuss any questions with their personnel office.

Employees who are in an LWOP status rather than separated for military service are still members of the bargaining unit and may be represented by the Union concerning certain issues such as the failure of the Postal Service to honor bids. They should seek advice from their branch officers or national business agent if they believe Union assistance is required.

For more information on USERRA, see Handbook EL-312, *Employment and Placement*, NALC's USERRA Rights White Paper (M-01453), or the United States Department of Labor website at www.dol.gov/vets/programs/userra.

Annual Leave Accrual

Career employees earn annual leave based on their years of creditable service. Creditable service is determined by adding time spent as a career Postal Employee and qualifying prior military service. Career employment in other federal agencies may also be added depending on the nature of the service.

Full-time employees are credited with annual leave as set forth in Section 512 of the *Employee and Labor Relations Manual* (ELM) based on their leave category. The following chart shows how the amount of leave earned is determined:

Leave Category	Creditable Service	Maximum Leave Per Year
4	Less than 3 years	4 hours for each full biweekly pay period; i.e., 104 hours (13 days) per 26-period leave year.
6	3 years but less than 15 years	6 hours for each full biweekly pay period plus 4 hours in last full pay period in calendar year; i.e., 160 hours (20 days) per 26-period leave year.
8	15 years or more	8 hours for each full biweekly pay period; i.e., 208 hours (26 days) per 26-period leave year.

Part-time employees accrue annual leave according to their years of creditable service and the number of hours worked in a pay period, according to the following chart from Section 512 of the ELM:

Leave Category	Years of Creditable Service	Maximum Leave per Year	Rate of Accrual	Hours in Pay Status	Hours of Leave Earned per Period
4	Less than 3 years	104 hours, or 13 days per 26-period leave year or 4 hours for each biweekly pay period.	1 hour for each unit of 20 hours pay in status.	20	1
				40	2
				60	3
				80	4 (max.)
6	3 years but less than 15 years	160 hours, or 20 days per 26-period leave year or 6 hours for each full biweekly pay period. ¹	1 hour for each unit of 13 hours in pay status.	13	1
				26	2
				39	3
				52	4
				65	5
78	6 (max.) ¹				
8	15 years or more	208 hours, or 26 days per 26-period leave year or 8 hours for each full biweekly pay period.	1 hour for each unit of 10 hours in pay status.	10	1
				20	2
				30	3
				40	4
				50	5
				60	6
				70	7
80	8 (max.)				

Military veterans may receive additional years of creditable service toward annual leave accrual. Section 512.23 of the ELM defines the military service that qualifies:

512.23 Military Service Counted

512.231 Service of an Employee Not Eligible for Military Retirement Annuity

The following military service is used in computing the years of service that determine the annual leave category:

- a. *Periods of active service terminated by honorable discharge or transfer to inactive reserves under honorable conditions. Active service may be in the Army, Air Force, Navy, Marine Corps, and/or Coast Guard and their respective academies.*

- b. *Service performed by employees who are members of the National Guard Service or Air National Guard Service only during periods of active duty with the U.S. Army or U.S. Air Force.*
- c. *Service performed by Naval Reserve Officers Training Corps students during periods of active duty or training duty as members of the Naval or Marine Corps Reserve.*

For example, an employee with two years of career service would normally be in Leave Category 4. However, an employee with two years of career service who had been honorably discharged after previously serving six years of active military duty accrues annual leave under Leave Category 6. The years of active military service also count towards reaching the next leave earning category, so this same employee would reach Leave Category 8 after only nine years in the Postal Service, rather than the 15 years it would take without the six years of active duty military service.

Unlike obtaining retirement credit, there is no requirement for a veteran to “buy back” military service in order for it to increase the annual leave accrual rate. Additionally, military retirees may be eligible to have their service credited for annual leave accrual, in specific circumstances:

512.232 Service of an Employee Eligible for Military Retirement Annuity

The following military service is used in computing the years of service that determine the annual leave category:

- a. *Full Credit. Full leave accrual credit for all of active military service is granted if a military retiree meets one of the following four conditions:*
 - (1) *Retirement was based on disability resulting from injury or disease received in the line of duty as a direct result of armed conflict.*
 - (2) *Retirement was based on disability caused by an instrumentality of war and incurred in the line of duty during a period of war defined in 38 United States Code (U.S.C.) 101 and 301.*
 - (3) *On November 30, 1964, the employee was employed in a civilian office to which the Annual and Sick Leave Act of 1951 applied and continues to be employed in a civilian capacity without a break in civilian service of more than 30 days.*
- b. *Partial Credit. Military retirees who do not qualify for full leave accrual credit can qualify for partial credit based on the following:*
 - (1) *Service for determining an employee’s leave category is restricted to the actual length of time in active service in the armed forces during any war or in any nonwartime campaign or expedition for which a campaign badge was authorized.*
 - (2) *Service in a nonwartime campaign or expedition does not entitle the military retiree to credit for the duration of the campaign or expedition but only for the period of service in the campaign or expedition.*

Military veterans should review their PS Form 50 to ensure they have been given appropriate leave accrual credit for their military service. For more information, Section 512 of the ELM is available on the NALC website at nalc.org/workplace-issues/resources/usps-handbooks-and-manuals.

Military Leave

Letter carriers who are military veterans often continue to serve their country in the Reserve or National Guard. Career letter carriers may receive up to 15 days per fiscal year of paid military leave to cover all or part of absences related to their service. This category of leave enables letter carriers to receive pay from the Postal Service while they fulfill certain military obligations, rather than depleting their annual leave balances or using leave without pay (LWOP).

Generally, an employee must be in pay status either immediately prior to the beginning of military duty or immediately after the end of military duty in order to be entitled to military leave with pay. It is important to note that most Postal Service leave provisions apply to the USPS leave year, which begins on the first day of the first complete pay period in a calendar year and ends on the day before the first day of the first complete pay period in the following calendar year. However, paid military leave must be used during the USPS **fiscal year**, which begins on October 1 and ends on September 30. Employees called to military duty should keep this in mind when considering their military leave allowances.

The following rules and regulations pertaining to the crediting and usage of paid military leave are found in Section 517 of the *Employee and Labor Relations Manual* (ELM):

517 Paid Military Leave

517.1 General

517.11 Postal Service Support

The Postal Service supports employee service in the Reserve or National Guard, and no action is permitted to discourage either voluntary or involuntary participation. The Postal Service allows employees to be absent:

- a. To participate in drills or meetings scheduled by the National Guard or Reserve Units of the armed forces.*
- b. To attend usual summer training periods.*
- c. To perform any other active duty ordered by the National Guard and Reserve Units of the armed forces.*

However, eligible employees are entitled to paid military leave only for such duty as and to the extent provided below.

517.12 Definition

Paid military leave is authorized absence from postal duties for hours the employee would have worked during his or her regular schedule, without loss of pay, time, or performance rating, granted to eligible employees who are members of the National Guard or reserve components of the armed forces.

Note: Non-workdays are not charged against the paid military leave allowed.

517.13 Types of Duty

517.131 Duty Covered for Members of the Reserves and National Guard, Except D.C.

National Guard

Types of duty covered as paid military leave include:

- a. Active duty, field, and coast defense training.*
- b. Scheduled drills.*
- c. Service providing military aid for law enforcement purposes.*
- d. Parade or encampment activities of the D.C. National Guard.*
- e. Service providing military aid for law enforcement purposes as provided in 517.43.*

517.133 Duty Not Covered

Types of duty not covered as paid military leave include:

- a. Summer training as a member of Reserve Officer Training Corps.*
- b. Temporary Coast Guard Reserve.*
- c. Service with the National Guard, if ordered by the State Governors without authority of the Department of Defense, except when such service is in connection with regular annual encampment or for law enforcement purposes as specified in 517.43.*

- d. *Training with a State Guard or other state military organization that is not a part of the National Guard or that was created to take the place of the National Guard during an emergency.*
- e. *Weekly drills as member of D.C. National Guard.*
- f. *Civil Air Patrol, established as a civilian auxiliary of the U.S. Air Force, and similar reserve and guard auxiliary organizations.*
- g. *Time taken on a workday to travel to the place where training is to begin, unless military training orders encompass the period of travel time required.*

517.2 Eligibility

517.21 Eligible Employees

Career postal employees, i.e., full-time, part-time regular, and part-time flexible employees who are members of the following components of the armed forces, are eligible for paid military leave:

- a. *The Army National Guard of the United States.*
- b. *The Army Reserve.*
- c. *The Naval Reserve.*
- d. *The Marine Corps Reserve.*
- e. *The Air National Guard of the United States.*
- f. *The Coast Guard Reserve.*
- g. *The Air Force Reserve.*

517.31 Approval

The employee is to complete a PS Form 3971 before the period of absence. Sufficient notice is required for making necessary arrangements for replacements. If the employee does not learn of the need for the absence until later, notice is to be given as soon possible. The official responsible for approving the attendance record also approves military leave.

517.32 Use of Mixed Leave

Normally the first days of a longer period of military duty are charged to military leave. If circumstances warrant it, any other scheduled workdays during the longer active duty period may be designated as military leave instead of the days at the beginning of the military duty.

517.33 Use of Leave Intermittently

Military leave may be taken intermittently.

517.34 Return From Duty

For paid military leave approval, upon return from military duty to the Postal Service, the employee furnishes a copy of military orders or other documentation properly endorsed by appropriate military authority to show the duty was actually performed.

517.4 Military Leave Allowances

517.41 General Allowance

Eligible full-time and part-time employees receive credit for paid military leave as follows:

- a. *Full-time employees other than D.C. National Guard — 15 calendar days (120 hours) each fiscal year.*
- b. *Part-time employees other than D.C. National Guard — 1 hour of military leave for each 26 hours in pay status (including military LWOP) in the preceding fiscal year provided:*
 - (1) *Employee was in pay status a minimum of 1,040 hours in the preceding fiscal year.*
Note: A part-time employee's time on military LWOP in one fiscal year counts toward meeting the 1,040 hours' requirement for the next fiscal year.
 - (2) *Employee's pay for military leave does not exceed 80 hours.*
- c. *D.C. National Guard — all days (no limit) of parade or encampment duty ordered under Title 49, District of Columbia Code.*

An employee may carry over up to 1 year's allotted but unused (not to exceed 15 days) military leave from one fiscal year to the next.

As stated here, Sections 517.32 and 517.33 of the ELM allow days on a longer period of military duty other than the first days of such duty to be charged to paid military leave and permit such leave to be used intermittently. To avoid timekeeping errors, an employee seeking to maximize his or her paid military leave for a longer absence should consider explaining the reason for the request for intermittent leave to the supervisor.

Section 517.31 of the ELM provides that, to the extent possible, when an employee is required to attend training or perform other military service, advance notice should be given using PS Form 3971, *Request for or Notification of Absence*. To ensure proper recording of leave and to protect the employee's annual leave balance, letter carriers should indicate "Military Leave" in the *Type of Absence* section of the form. Below is an example of a properly completed PS Form 3971 for paid military leave for an employee who was required to attend annual military training.

UNITED STATES POSTAL SERVICE		Request for or Notification of Absence								
Employee's Name (Print last, first, MI.) Erney, Ronald L.		Employee ID 09876543	Date Submitted (MM/DD/YYYY) 1/2/2020	No. of Hours Requested 16			SCHEDULED UNSCHEDULED	PP Year		
Installation (For postmaster's leave, show city, state, and ZIP Code) Washington, DC		N/S Day No	Pay Loc. No. 999	D/A Code 13-4	From: Date 5/1/2020	Hour 0750		Day	Init.	Hours
Time of Call or Request		Scheduled Reporting Time	If Needed, Employee Can Be Reached At <input type="checkbox"/> Do not call		Thru: Date 5/2/2020	Hour 1600				
Type of Absence <input type="checkbox"/> Annual <input type="checkbox"/> Holiday/AL LV Exch <input type="checkbox"/> Carrier 701 Route <input type="checkbox"/> LWOP (See reverse) <input type="checkbox"/> Sick (See reverse) <input type="checkbox"/> Late <input type="checkbox"/> COP (See reverse) <input checked="" type="checkbox"/> Other Military Leave		Documentation (For official use only) <input type="checkbox"/> FMLA Requested (Certification review - HRSSG) <input type="checkbox"/> For COP Leave (CAI on file) <input type="checkbox"/> For Advanced Sick Leave (PS 1221 on file) <input type="checkbox"/> For Military Leave (Orders reviewed) <input type="checkbox"/> For Court Leave (Summons reviewed) <input type="checkbox"/> For Higher Level (FS 1722 on file) <input type="checkbox"/> Scheme Training Testing Qualifying (Memo on file)		Revised Schedule for (Date) Begin Work: Lunch Out: Lunch In: End Work: Total Hours:		Approved in Advance <input type="checkbox"/> Yes <input type="checkbox"/> No				
Remarks (Do not enter medical information. See Privacy Act Statement on reverse of this form.)										
I understand that the annual leave authorized in excess of the amount available to me during the leave year will be charged to LWOP.										
Employee's Signature and Date Ronald L. Erney 1/2/20		Signature of Person Recording Absence and Date			Signature of Supervisor and Date Notified					
Official Action on Application (Return copy of signed request to employee.) <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved (Give reason below)		Do not check an FMLA box until you verify the FMLA designation. <input type="checkbox"/> FMLA Designation is PENDING <input type="checkbox"/> FMLA Protected <input type="checkbox"/> Not FMLA Protected			Signature of Supervisor and Date <input type="checkbox"/> Continued on reverse					
PS Form 3971, October 2017 (Page 1 of 2) PSN 7530-02-000-9136							Warning: The furnishing of false information on this form may result in a fine of not more than \$10,000 or imprisonment of not more than 5 years, or both (18 U.S.C. 1001).			

The *Documentation* section in the middle of the form is for the supervisor to place a check mark indicating he or she reviewed and verified the military orders support the leave request.

Wounded Warriors Leave

Management is required to approve leave requests by disabled veterans to undergo medical examination or treatment related to their service-connected disabilities. This requirement is explained in greater detail in the next section. Unfortunately, letter carriers may not accrue enough paid leave, especially when they are first hired, to cover these absences. Prior to 2016, this meant many veterans with service-connected disabilities had to take unpaid leave to attend medical appointments.

In response to the passage of the *Wounded Warriors Federal Leave Act of 2015*, the Postal Service released a Management Instruction setting forth its policy guidelines and standard procedures for administering, at that time, a newly-created and distinct category of leave called Wounded Warriors Leave. Beginning November 5, 2016, certain veterans who chose to commence or resume a civilian career with the Postal Service following their military service became eligible to have credited and use up to 104 hours of Wounded Warriors Leave to undergo medical treatment for a service-connected disability rated at 30 percent or more. At that time, the Postal Service extended this benefit only to eligible new employees hired on or after November 5, 2016, as well as employees who left the Postal Service's employment or took military leave to participate in active-duty military service, sustained a service-connected disability rating of at least 30 percent during that military leave or service, and then returned directly from that leave or service on or after November 5, 2016.

Later that same year, the Postal Service decided this benefit would also be extended to all eligible employees who were on the rolls as of November 4, 2016, rather than only the employees described above. Those employees who were employed on November 4, 2016, and who otherwise met the eligibility requirements of the *Wounded Warriors Federal Leave Act of 2015* were allowed to use up to 104 hours of Wounded Warriors Leave during the twelve-month period beginning November 5, 2016. Additionally, any eligible employees who used leave for a condition covered by the Act prior to the change were eligible to request to have their leave converted to Wounded Warriors Leave.

Beginning with the 2019 leave year, the Postal Service made further changes to Wounded Warriors Leave and it issued Management Instruction EL-510-2019-2 (M-01901 in NALC's Materials Reference System). The most significant change is that beginning with the 2019 Leave Year, eligible employees started receiving 104 hours of Wounded Warriors Leave **each leave year**, instead of only previously receiving it for one 12-month eligibility period.

Eligible new employees receive 104 hours of Wounded Warriors Leave (as required by law) to be used for the remainder of that leave year. Each January, all disabled veterans with a 30 percent or more combined disability rating receive 104 hours of Wounded Warriors Leave to use during that leave year. At the end of each leave year, any remaining Wounded Warriors Leave is forfeited but, assuming the employee still has a combined disability rating of 30 percent or more, he or she will receive a new 104 hours at the start of the new leave year. Any unused Wounded Warriors Leave is not rolled over to the next year, nor will it be paid out if the employee leaves.

The following reflects the rules regarding the eligibility and crediting of this leave:

Eligibility

Eligible Employees

All employees who have a single or combined service-connected disability rating of 30 percent or more are eligible for Wounded Warriors Leave.

Employees with Pending Disability Determinations

Otherwise eligible employees with pending disability determinations who at any time during any Leave Year receive a 30 percent or more disability rating, will be eligible for leave retroactively to the first day of that current Leave Year. Any leave without pay (LWOP) or leave used while the determination is pending will be reimbursed and replaced with Wounded Warriors Leave, as appropriate, up to the maximum number of

hours allowed. Wounded Warriors Leave may be retroactively applied for only the most current Leave Year and for no more than 104 hours.

Losing the Disability Rating

If an employee's service-connected disability rating is decreased to below 30 percent or discontinued during any Leave Year then the employee no longer has a qualifying service-connected disability. The employee must notify the HR Shared Service Center of the effective date of the change in the disability rating. The employee is no longer eligible for Wounded Warriors Leave as of the effective date of the rating change.

Accrual and Crediting

General

It is an employee's responsibility to notify the Postal Service of his or her eligibility before requesting Wounded Warriors Leave. Employees must provide documentation to the HR Shared Service Center from the Department of Veterans Affairs certifying that the employee has the requisite level of service-connected disability.

Initial Eligibility

Newly hired eligible employees or those returning to the Postal Service will be credited with 104 hours of Wounded Warriors Leave following the Postal Service's receipt of documentation supporting the employee's eligibility. Wounded Warriors Leave will be available for use retroactively to the first day of their enter-on-duty date, or the current Leave Year, whichever is later, for use through the end of the Leave Year.

Additional Eligibility

Eligible employees will be credited with 104 hours of Wounded Warriors Leave on the first day of each Leave Year and the leave is available for use until the last day of the Leave Year.

Carryover

Wounded Warriors Leave must be used during the Leave Year in which it is credited and will not be carried over. No employee may accrue more than 104 hours during any Leave Year

Separation

If the employee leaves the Postal Service at any time during any Leave Year, any remaining leave will not be reinstated or paid out, except as permitted by OPM regulations if the employee transfers to another federal agency.

Employees who need to provide information to the HR Shared Service Center referenced above may do so via mail or fax at the following addresses and fax numbers:

Career Employees

By Mail:

USPS/HRSSC
Attn: RTR Team
PO Box 970100
Greensboro, NC 27497-0100

By Fax:

(650) 577-4324

Non-Career Employees

By Mail:

USPS/HRSSC
Attn: Form 50 Team
PO Box 970400
Greensboro, NC 27497-0400

By Fax:

(336) 662-4070 or (336) 662-4073

Eligible employees are required to request this leave in advance when possible by completing and submitting a PS Form 3971, *Request for or Notification of Absence* to their supervisor. The employee should designate the reason for the absence as "Other" on the PS Form 3971 and write "Wounded Warriors Leave" in the space provided. The supervisor is responsible for approving or disapproving requests for Wounded Warriors Leave by signing PS Form 3971 and returning a copy to the employee.

Should the need to use this leave be unforeseeable, the employee must notify their supervisor of the absence, the expected duration, and the applicability of Wounded Warriors Leave. Employees may utilize the Enterprise Leave Request Application (eLRA) to request unscheduled Wounded Warriors Leave, which is accessed online via LiteBlue at www.liteblue.usps.gov. Alternatively, in offices where the Interactive Voice Response (IVR) system is used, the employee may record his or her absences by that method. In offices without the IVR system, the employee may notify the supervisor directly of the need for the absence. If the employee does not submit PS Form 3971 before the absence, the employee must complete the form upon his or her return to duty.

In addition, to verify that Wounded Warriors Leave requested by an employee is appropriately used for the treatment of a service-connected disability, the requesting employee must provide proof from the health care provider that the employee used the leave to receive treatment for a covered disability. The Postal Service created a form to be used for this verification. The form is PS Form 5980, *Treatment Verification for Wounded Warriors Leave*. Employees are required to submit a PS Form 5980 no later than 15 calendar days after they return to work.

Employees eligible for Wounded Warriors Leave may also be able eligible for protection under the *Family and Medical Leave Act (FMLA)*. See Section 515 of the *Employee and Labor Relations Manual* for more information and eligibility requirements regarding FMLA. Supervisors will initiate FMLA leave if they have reasonable grounds to believe that the leave might qualify. It is the employee's responsibility to provide complete and sufficient documentation to establish eligibility for FMLA. FMLA protection will run concurrently with Wounded Warriors Leave.

Wounded Warriors Leave is a very important benefit to letter carriers who are also veterans with a disability rated at 30 percent or greater. Disabled veterans generally are required to attend regular medical appointments to maintain their health and to continue their eligibility to receive their veterans' benefits. Frequently, it is unavoidable that such appointments must be scheduled during normal work hours and letter carriers in the past were therefore often required to use LWOP or Sick Leave to attend those appointments. Wounded Warriors Leave provides relief to those who are eligible and must receive necessary treatment, and it provides that relief every year.

Information regarding the rules and regulations of Wounded Warriors Leave has been made available on the NALC website at nalc.org and can be found on the Military Veterans, Contract Administration Unit, and City Delivery pages. PS Form 5980, *Treatment Verification for Wounded Warriors Leave* can be found on those pages as well. Additionally, a copy of PS Form 5980 is provided on the next page. After reviewing the Wounded Warriors Leave guidelines, if you have any further questions make sure to discuss them with your shop steward or a branch officer.



Treatment Verification for Wounded Warriors Leave

A. Employee Information (To be completed by the employee)

Name (Last, First, Middle Initial)	Employee ID	Date Submitted
Installation	Date of Appointment with Health Care Provider	Time of Appointment with Health Care Provider

I certify that I am requesting Wounded Warriors Leave in conjunction with a military service-connected disability rated at 30 percent or more. I have provided documentation to the Postal Service from the Department of Veterans Affairs, or on any Office of Personnel Management (OPM) certification form developed for administration of Wounded Warriors Leave, certifying that I have a qualifying service-connected disability, as required in Management Instruction EL-510-2016-8.

I also acknowledge that I have **15 calendar days** from the date I return to work to provide this verification to the appropriate supervisor to use Wounded Warriors Leave in lieu of sick leave, annual leave, or leave without pay.

Employee Signature	Date
--------------------	------

Privacy Act Statement: Your information will be used to administer leave. Collection is authorized by 39 USC 401, 404, 1001, 1003, and 1005; and 29 USC 2601 et seq. Providing the information is voluntary, but if not provided, we may not process your request. Your information may be disclosed as follows: in relevant legal proceedings; to law enforcement when the USPS or requesting agency becomes aware of a violation of law; to a congressional office at your request; to entities under contract with USPS and/or authorized to perform audits; to labor organizations as required by law; to government agencies regarding personnel matters; to the EEOC; and to the MSPB or Office of Special Counsel. For more information regarding our privacy policies visit www.usps.com/privacypolicy.

B. Provider Information (To be completed by the health care provider)

Name of Physician/Provider	Specialty
Name of Health Care Facility	Contact Telephone Number

Please provide details of any treatment required, including the frequency and/or duration of any course of action you may prescribe, that would necessitate the employee taking additional leave from work beyond the date of appointment identified in the *Employee Information* portion of this verification form.

The above-referenced employee is requesting to take leave under the Wounded Warriors Federal Leave Act of 2015 for treatment of a service-connected disability, as certified by the U.S. Department of Veterans Affairs. Treatment is defined as an in-person visit to a health care provider and includes the course of action prescribed by a health care provider. Your signature below, as the health care provider, verifies that the identified employee is undergoing treatment for a certified disabling condition.

Health Care Provider Signature	Date
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Printed Name

C. Official Action on Application (Return copy of signed request to employee)

Approved Disapproved

Reason/Reason Code for disapproval (if applicable):

Supervisor Signature	Date
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Medical Appointments – Disabled Veterans

As discussed in the previous section, employees with a combined service-connected disability of 30 percent or greater are entitled to use Wounded Warriors Leave to receive medical treatment related to the disability. However, this entitlement is not the only protection for veterans with a service-connected disability.

While the Postal Service normally has discretion to approve or disapprove leave requests, a disabled veteran who is directed to report for observation or treatment by a duly authorized medical authority *must* be granted leave to attend that appointment. Additionally, the employer cannot use the absence against the employee for disciplinary purposes. These rights originated in Executive Order 5396 (M-00165), issued by President Herbert Hoover in 1930, which also clarified that veterans must give prior notice of the definite days and hours of absence to ensure the leave is approved:

Executive Order

Special Leaves of Absence to be Given Disabled Veterans in Need of Medical Treatment

With respect to medical treatment of disabled veterans who are employed in the executive civil service of the United States, it is hereby ordered that, upon the presentation of an official statement from duly constituted medical authority that medical treatment is required, such annual or sick leave as may be permitted by law and such leave without pay as may be necessary shall be granted by the proper supervisory officer to a disabled veteran in order that the veteran may receive such treatment, all without penalty in his efficiency rating.

The granting of such leave is contingent upon the veteran's giving prior notice of definite days and hours of absence required for medical treatment in order that arrangements may be made for carrying on the work during his absence.

Herbert Hoover

July 17, 1930

In 1988, the Postal Service and the NALC agreed in case H4N-4F-C 11641 (M-00866) that President Hoover's 1930 Executive Order applied to disabled veterans who are letter carriers:

The parties at this level agree that Executive Order 5396, dated July 3, 1930, does apply to the Postal Service and that absences meeting the requirements of that decree cannot be used as a basis for discipline.

The requested leave may be annual leave, sick leave, Wounded Warriors Leave, or leave without pay (LWOP). Generally, management has the sole discretion to approve or disapprove an employee's request for LWOP (in lieu of paid leave). However, the Postal Service must approve requests for LWOP by qualifying disabled veterans for medical treatment. Section 514.22 of the *Employee and Labor Relations Manual* (ELM) contains this exception:

514.22 Administrative Discretion

*Each request for LWOP is examined closely, and a decision is made based on the needs of the employee, the needs of the Postal Service, and the cost to the Postal Service. The granting of LWOP is a matter of administrative discretion and is not granted on the employee's demand **except as provided in collective bargaining agreements or as follows** [emphasis added]:*

- a. A disabled veteran is entitled to LWOP, if necessary, for medical treatment.*

The need for veterans to obtain medical treatment for service-connected health issues has been recognized and protected for decades. Medical examination and treatment are important to maintaining good health so veterans should be aware the Postal Service acknowledges absences for these purposes are legally protected.

On-the-Job Injuries—OWCP/DVA Dual Coverage

Many veterans have service-connected disabilities and still enjoy long, injury-free careers as letter carriers. The physical nature of letter carrier work, however, may aggravate previous service-connected disabilities. Veterans should understand their rights under federal law to compensation and other benefits for postal work-related injuries.

Military veteran letter carriers are eligible for protection under both the Department of Veterans Affairs (DVA) and the Federal Employee Compensation Act (FECA), which is administered by the Office of Workers' Compensation Programs (OWCP). Letter carriers with DVA disability ratings may suffer an aggravation of their pre-existing service-connected disability. These employees are still eligible for coverage under FECA, as long as the aggravation relates to their postal employment. While OWCP still covers such injuries, veterans need to be mindful of both the benefits and the limitations of dual coverage by DVA and OWCP.

Under FECA, an injured letter carrier whose OWCP claim is accepted is entitled to medical benefits and wage-loss compensation. For letter carriers with DVA disability ratings, applying for some OWCP benefits may require an election between the DVA benefits and OWCP benefits.

Example:

A letter carrier, who is already receiving benefits from the DVA for 50 percent disability due to a service-connected back injury has a work-related injury that causes a disabling aggravation of his pre-existing back injury. OWCP determines that he has a total loss of wage-earning capacity due to the back injury. Subsequent to the employment injury, DVA increases its award to 100 percent because of the aggravation by the postal employment injury.

An election between benefits is required in this case. The letter carrier may elect:

- The amount of entitlement under FECA for his postal injury **plus** the amount he or she was already receiving from the DVA for 50 percent prior to that injury, **or**
- The total amount of entitlement from the DVA for 100 percent.

If the injury as a letter carrier is for the *same* body part as a service-related disability, OWCP can provide benefits for injury beyond the original DVA disability rating. An injury unrelated to a DVA disability rating is eligible for full coverage under FECA.

OWCP regulations require claims examiners to communicate with the DVA prior to the award of wage-loss compensation to prevent the dual payment of benefits. If this is not done properly, an overpayment of OWCP benefits may result.

An injured letter carrier with a DVA disability rating needs to be alert to the possibility of an overpayment, since the injured employee may need to repay the overage. OWCP asks injured workers if they have ever applied for disability benefits from the DVA on Form CA-7, *Claim for Compensation*, and Form CA-1032/EN-1032, which is an affidavit of any work (or activity indicating an ability to work) which the injured employee has performed for the prior 15 months. Even if OWCP is aware of the DVA benefits, they might not adjust compensation. This would result in an overpayment, which can lead to substantial charges by OWCP and financial hardship to injured workers.

Veterans who already have a DVA disability rating for an injury should usually still file an OWCP claim if they suffer a work-related injury. Since most veterans with service-connected disabilities continue to get their health care from the DVA, they might want to continue to use their DVA physician. However, under FECA a letter carrier who suffers a job-related injury has the option of choosing his or her attending physician, who may refer the employee to specialists for the injury.

OWCP regulations require very specific information to be included in medical narratives supporting injury claims. These requirements make many DVA physicians reluctant to process the necessary medical narratives for veterans with work-related injuries. No matter which physician an injured worker chooses, the medical narrative is a key factor in getting the OWCP claim accepted.

One of the benefits of having an accepted claim is the Postal Service must make every effort to find work for employees injured on the job. It is important for an injured letter carrier to inform his or her DVA physician that, by having an accepted OWCP claim, the Postal Service has an obligation to find work for him or her within his or her limitations. Physicians want their patients to heal and return to work when possible. Informing your physician of the Postal Service's obligations may help you secure the medical narrative you need.

While the regulations for coverage under both FECA and DVA disability have complex rules, any letter carrier with a service-connected disability who suffers an injury in the course of performing his or her duties should file an OWCP claim to obtain the maximum protection under both agencies.

Sometimes, private sector organizations or individuals may reach out to an injured employee offering to assist with his or her compensation claim. NALC cautions injured employees that these entities, which typically receive payment for providing advice or services, may not have the employee's best interests in mind. By contrast, NALC has dedicated regional workers' compensation assistants (RWCAs) available to provide expert assistance at **no charge** to members. The RWCA should be a primary resource when handling an on-the-job injury claim, in addition to the injured employee's own due diligence. Injured employees with questions about their claims should first call the national business agent's office for assistance. The NBA and regional administrative assistants are well versed in many aspects of workers' compensation issues. If necessary, the NBA will contact the RWCA, whose training and experience enables him or her to address the more complicated aspects of workers' compensation issues.

Veterans and Mental Health

Military veterans carry the same psychological and emotional burdens as the rest of the population. For some combat veterans these sources of stress can be magnified dramatically. In addition, veterans often have other service-connected issues that most civilians do not experience. For example, veterans commit suicide at a rate that is approximately twice that of the general population; more than 20 veterans and active duty service members die from suicide every day.⁵ While it is unquestionably true that **any** number of suicides is too high, these statistics highlight the dire need for extra attention to veterans' issues and the fact that veterans are among those with the most to gain from mental health counseling.

The U.S. Department of Veterans Affairs (DVA) recognizes this and offers counseling services tailored to veterans' unique needs. In situations requiring immediate access to support, veterans have access to the Veterans Administration 24/7 Veterans Crisis Line by calling **800-273-TALK** (800-273-8255) (TTY: 800-799-4889) or online at VeteransCrisisLine.net.

Unfortunately, many veterans served during a time when there was a stigma associated with mental health. Talking about one's feelings or seeking help was not widely accepted. Thankfully, that culture appears to be shifting. For example, a University of Phoenix study released in November of 2018 found that only 23 percent of veterans said their leadership openly discussed the importance of addressing mental health concerns during their time in the service, while 91 percent of current active-duty service members said their leadership openly discusses it.⁶

This is encouraging news in terms of younger veterans getting help in the early stages of a problem, and it gives some insight into also getting older veterans to seek counseling. It seems the average veteran does not want to be the *only one* getting counseling. The study suggests they are more likely to seek help if they know others are also doing it. The study referenced above also found 58 percent of veterans said they would be encouraged to seek professional counseling if a close colleague, friend, or family member spoke about their experience receiving counseling.

Despite having access to mental health resources, veterans still find it difficult to take the key first step of acknowledging they could benefit from counseling. Even if they do take that step, for several reasons many veterans prefer not to go through the DVA. Some reasons might be concerns about confidentiality (especially where classified information is involved) or doubts about whether counseling can help them at all.

Because it is so important to have a place to turn for support, veterans who are letter carriers (or family members of letter carriers living under the same roof) should contact the **Employee Assistance Program (EAP)**, negotiated into the National Agreement through Article 35. Counseling through EAP is available by telephone at 800-EAP-4YOU (800-327-4968) (TTY: 877-492-7341) and by visiting the EAP website at <https://usps.ndbh.com/EAP>.

EAP is free, confidential, and available in several formats. Counselors are available for in-person sessions, phone sessions, or through the *Talkspace* online chat platform (discussed in more detail later in this section). Veterans who visit the EAP website can explore a wide variety of relevant topics by clicking "Veterans Resources" under the "Veterans & Military" tab on the home page. The tab leads to several subjects of interest to veterans, including videos, articles, and links to other websites.

In the 1970s, Article 35 of the National Agreement was titled "Program for Alcoholic Rehabilitation" and was staffed by postal employees, many of whom were themselves in recovery. Because that program was originally designed to address drug and alcohol dependence, some employees mistakenly believe EAP participation is limited to just those issues. This could not be further from the truth. It is true that EAP is available for chemical dependency problems, but our National Agreement specifies that EAP is equally available for *family and/or personal problems*. Any stress or burden, whether work-related or not, that

⁵ https://www.mentalhealth.va.gov/docs/data-sheets/2019/FAQ_2019_Annual_Report_508.pdf

⁶ <https://www.phoenix.edu/news/releases/2018/11/upox-survey-finds-veterans-less-likely-to-seek-mental-health-counseling-than-active-duty.html>

affects the physical or mental well-being of our members — especially our military veterans — is a stress or burden that need not be borne alone. In other words, NALC negotiated EAP into our contract to address a host of problems experienced by all letter carriers, *including veterans*. Specifically, Article 35 of the National Agreement provides:

Section 1. Programs

The Employer and the Union express strong support for programs of self-help. The Employer shall provide and maintain a program which shall encompass the education, identification, referral, guidance and follow-up of those employees afflicted by the disease of alcoholism and/or drug abuse. When an employee is referred to the EAP by the Employer, the EAP staff will have a reasonable period of time to evaluate the employee's progress in the program. This program of labor-management cooperation shall support the continuation of the EAP for alcohol, drug abuse, and other family and/or personal problems at the current level.

An employee's voluntary participation in the EAP for assistance with alcohol and/or drug abuse will be considered favorably in disciplinary action proceedings.

Many veterans continue to serve our country after discharge from active duty, either in the reserves or in the National Guard. This continued obligation potentially carries additional sources of stress. To address these issues, EAP offers counseling on a wide range of topics including, but not limited to:

- Pre-Deployment
- Deployment
- Returning Home
- Helping Children Adjust to the Deployment
- Returning to Work
- Managing the Family Budget During Deployment

These topics are common areas of concern for the families of reservists and members of the National Guard, but many nonetheless have difficulty “opening up” about their personal and family problems. Sometimes there is a sense of vulnerability which prevents them from disclosing important details, and sometimes it results from a concern the counselor will reveal personal information to another party. It is essential for veterans to understand confidentiality is the cornerstone of EAP counseling. EAP counselors are required to hold an advanced degree in their field of expertise, be licensed, and are bound by strict privacy regulations. Employees are encouraged to discuss any privacy concerns early in the relationship with their counselor.

As an added measure of reassurance, the home page of the EAP website (<https://usps.ndbh.com/EAP>) includes a section called *Talkspace*, which allows veterans and their families to get free, confidential therapy without even leaving their home. With *Talkspace* online therapy, employees connect with a licensed therapist through text messaging. This option provides some additional distance between the counselor and the employee, which may alleviate some of the reluctance caused by the thought of “opening up” to another person.

Some counselees believe participation in EAP will negatively affect their jobs. Chapter 9 of the *Employee and Labor Relations Manual* (ELM) specifically refutes that notion, stating:

941.31 Job Security

*Participation in EAP is voluntary and **will not jeopardize the employee's job security** or promotional opportunities [emphasis added].*

In fact, seeking counseling demonstrates the employee is taking steps on his or her own to correct a problem. Because of this, EAP can be helpful in the grievance procedure if management contemplates disciplining an employee who is getting counseling for the problem that contributed to the alleged misconduct.

Furthermore, an employee's first EAP session is on the clock, if the employee wishes. Section 941.35 of the ELM covers the rules for scheduling an EAP counseling session:

941.35 Scheduling

The following guidelines apply to scheduling and whether EAP sessions take place on or off the clock:

- a. An employee's first visit to EAP is on the clock, whether the visit is initiated by management, the Union representative, or the employee (unless the employee prefers to visit the EAP unit on his or her own time).*
- b. Subsequent consultations are on the employee's own time.*
- c. If a reasonable period of time has elapsed since a management referral or a previously disclosed self-referral, the manager or supervisor may, on a case-by-case basis, approve an additional on-the-clock session.*
- d. To receive pay for an on-the-clock session, the employee must authorize the EAP provider to disclose his or her attendance to management.*

EAP provides an opportunity to address troubling personal circumstances by working with a trained counselor who is ready to listen and offer guidance. It is also important to remember that rights to use EAP are guaranteed without fear of harassment or reprisal and are strictly confidential.

VA - 24/7 Veterans Crisis Line
1-800-273-TALK (1-800-273-8255)
VeteransCrisisLine.net
(TTY: 800-799-4889)

Employee Assistance Program (EAP)
1-800-EAP4YOU (1-800-327-4968)
<https://usps.ndbh.com/EAP>
(TTY: 877-492-7341)

Veterans' Preference—Discipline Process and MSPB

The *Veterans' Preference Act of 1944* not only benefits veterans during the hiring process; it also guarantees additional rights to employed veterans regarding job security. These rights, which originally applied only to war veterans, provided specific notice and appeal rights in matters of employee discipline. These rights have been subsequently expanded to protect other employees with veterans' preference, provided they have served one year of current, continuous service.⁷ A break in service of one workday during the year disqualifies an employee from these rights. This means CCAs would not be protected unless they worked at least 365 days without a break in service.

According to the Act, a federal employer could not initiate an adverse action against a war veteran without good cause and without first providing 30 days' written notice of the allegations and an opportunity to respond. The veteran then could appeal the adverse action to the Civil Service Commission. Adverse actions are defined in Section 1201.3 of Title 5 of the Code of Federal Regulations (CFR):

1201.3 Appellate jurisdiction.

Adverse Actions. Removals (terminations of employment after completion of probationary or other initial service period), reductions in grade or pay, suspension for more than 14 days, or furloughs for 30 days or less for cause that will promote the efficiency of the service; an involuntary resignation or retirement is considered to be a removal

The *Civil Service Reform Act of 1978* dissolved the Civil Service Commission and replaced it with two different agencies: The Office of Personnel Management (OPM) and the Merit Systems Protection Board (MSPB). Appeals of adverse actions that were formerly made to the Civil Service Commission are now made to the MSPB. Veterans should note that the MSPB is not part of the contractual grievance procedure, so NALC does not represent employees in MSPB appeals.

The Postal Service has incorporated this veterans' appeal process into Chapter 6 of the *Employee and Labor Relations Manual* (ELM), which states:

666.23 Adverse Action Appeals to the Merit Systems Protection Board

All employees eligible for veterans' preference and certain other nonbargaining unit employees with one year of current continuous service in the same or similar position may appeal removals, reductions in grade or pay, suspensions of more than 14 days, or furloughs of 30 days or less. The appeal must be made to the Merit Systems Protection Board (MSPB) within 30 days of the effective date of the action. Preference eligible employees may also appeal reduction-in-force (RIF) actions to the MSPB.

Article 16, Section 9 of the National Agreement outlines preference eligible veterans' rights with respect to the Act and states in relevant part:

Article 16, Section 9. Veterans' Preference

A preference eligible is not hereunder deprived of whatever rights of appeal are applicable under the Veterans' Preference Act.

This means preference eligible veterans have two avenues to appeal a discharge or a suspension of more than 14 days. They may file a grievance under Article 15 of the National Agreement and/or an appeal through MSPB. However, while a preference eligible veteran may appeal the adverse action in both forums, there are limits. Article 16, Section 9 continues and states in relevant part:

...If the employee appeals under the Veterans' Preference Act, however, the time limits for appeal to arbitration and the normal contractual arbitration scheduling procedures are not to be delayed as a consequence of that appeal; if there is an MSPB appeal pending as of the date the arbitration is scheduled by the parties, the grievant waives access to the grievance-arbitration procedure beyond Step B.

⁷ <https://www.mspb.gov/appeals/appellantqanda.htm>

In other words, a veterans' preference eligible employee may file an initial appeal in a grievance and through MSPB, but a choice between them must be made by the date the Article 15 grievance is scheduled for arbitration. The *USPS-NALC Joint Contract Administration Manual (JCAM)* states:

MSPB Dual Filings. The Veterans' Preference Act guarantees "preference eligible" employees certain special rights concerning their job security. (Federal law defines a "preference eligible" veteran at Title 5 United States Code Section 2108; see EL-312, Section 483). A preference eligible employee may file both a grievance and an MSPB appeal on a removal or suspension of more than fourteen days. However, Article 16.9 provides that an employee who exercises appeal rights under the Veterans' Preference Act waives access to arbitration when they have an MSPB appeal pending as of the date the grievance is scheduled for arbitration by the parties. The date of the arbitration scheduling letter is considered "the date the arbitration is scheduled by the parties" for the purposes of Article 16.9.

Item 12.a on PS Form 8190, *USPS-NALC Joint Step A Grievance Form*, asks if there is a companion MSPB appeal. This is to alert all grievance handlers that the employee has filed both a grievance and an MSPB appeal. While the shop steward should answer this question on PS Form 8190 and all parties should be aware of the dual filing, the grievant is responsible for adhering to the time limit to declare which appeal process he or she will pursue.

Normally, while awaiting adjudication of an adverse action grievance, Postal Service employees are required to make reasonable efforts to obtain other employment in order to recover back pay in the event the adverse action is overturned. However, the instructions on PS Form 8038, *Employee Statement to Recover Back Pay*, clarify that a preference eligible veteran who appeals the action through MSPB is *not* required to seek other employment.

Preference eligible veterans also receive an additional, informal benefit with respect to emergency suspensions imposed pursuant to Article 16, Section 7 of the National Agreement, which provides in pertinent part:

16.7. Emergency Procedure

An employee may be immediately placed on an off-duty status (without pay) by the Employer...The employee shall remain on the rolls (non-pay status) until disposition of the case has been had.

As previously indicated, preference eligible veterans are entitled to 30 days' advance notice for adverse actions, including suspensions of more than 14 days. Due to the immediate nature of a suspension in accordance with Article 16, Section 7, no *advance* notice is possible. Without 30 days' advance written notice it would be a violation of the Veterans' Preference Act to retain a preference eligible veteran in a non-pay status longer than 14 days under this provision. Therefore, management usually returns veterans' preference eligible employees to a pay status after 14 days in a non-pay status.

If a preference eligible veteran is suspended under Article 16, Section 7 without 30 days' advance notice and is *not* returned to a pay status before 14 days have elapsed, the veteran should file an MSPB appeal in addition to a grievance. As stated earlier, while a letter carrier may file both a grievance and an MSPB appeal protesting an adverse action, the employee must choose which appeal to pursue by the date the grievance is scheduled for arbitration. Information on appeal rights and time limits for filing an MSPB appeal are found in Sections 1201.21 and 1201.22 of Title 5 of the CFR:

1201.21 Notice of appeal rights.

When an agency issues a decision notice to an employee on a matter that is appealable to the Board, the agency must provide the employee with the following:

- (a) Notice of the time limits for appealing to the Board, the requirements of § 1201.22(c), and the address of the appropriate Board office for filing the appeal;*
- (b) A copy, or access to a copy, of the Board's regulations;*
- (c) A copy, or access to a copy, of the MSPB appeal form available at the Board's Web site (<http://www.mspb.gov/>), and*
- (d) Notice of any right the employee has to file a grievance or seek corrective action under subchapters II and III of 5 U.S.C. chapter 12, including:*

- (1) *Whether the election of any applicable grievance procedure will result in waiver of the employee's right to file an appeal with the Board;*
 - (2) *Whether both an appeal to the Board and a grievance may be filed on the same matter and, if so, the circumstances under which proceeding with one will preclude proceeding with the other, and specific notice that filing a grievance will not extend the time limit for filing an appeal with the Board;*
 - (3) *Whether there is any right to request Board review of a final decision on a grievance in accordance with § 1201.155 of this part; and*
 - (4) *The effect of any election under 5 U.S.C. 7121(g), including the effect that seeking corrective action under subchapters II and III of 5 U.S.C. chapter 12 will have on the employee's appeal rights before the Board.*
- (e) *Notice of any right the employee has to file a complaint with the Equal Employment Opportunity Commission or to grieve allegations of unlawful discrimination, consistent with the provisions of 5 U.S.C. 7121(d) and 29 CFR 1614.301 and 1614.302.*
- (f) *The name or title and contact information for the agency official to whom the Board should send the Acknowledgment Order and copy of the appeal in the event the employee files an appeal with the Board. Contact information should include the official's mailing address, email address, telephone and fax numbers.*

[As amended at 77 FR 62364, Oct. 12, 2012; 78 FR 21518, Apr. 11, 2013]

1201.22 Filing an appeal and responses to appeals.

- (a) *Place of filing. Appeals, and responses to those appeals, must be filed with the appropriate Board regional or field office. See § 1201.4(d) of this part.*
- (b) *Time of filing. (1) Except as provided in paragraph (b)(2) of this section, an appeal must be filed no later than 30 days after the effective date, if any, of the action being appealed, or 30 days after the date of the appellant's receipt of the agency's decision, whichever is later.*

Preference eligible veterans who receive discipline in excess of a 14-day suspension should be sure to notify their shop steward of both the discipline and their veterans' preference eligible status so the steward can ensure proper procedures are followed.

Layoffs and Reduction in Force

Like any other business, the Postal Service is susceptible to downturns in demand. USPS may respond to these downturns by laying off employees. The National Agreement contains language permitting the Postal Service to involuntarily separate employees in such situations. If this occurs, preference eligible veterans have additional protections.

Article 6 of the National Agreement covers “Layoffs and Reduction in Force.” The meanings of these terms as used in our contract are unique. Article 6, Sections C and D provide the following definitions of layoff, reduction in force, and recall rights:

C. Layoff and Reduction in Force

- 1. Definition.** *The term “layoff” as used herein refers to the separation of **non-protected, non-preference eligible** employees in the regular work force because of lack of work or other legitimate, non-disciplinary reasons. The term “reduction in force” as used herein refers to the separation or reduction in the grade of a **non-protected veterans’ preference eligible** in the regular work force because of lack of work or other legitimate non-disciplinary reasons [emphasis added].*
- 2. Order of layoff.** *If an excess of employees exists at an installation after satisfaction of the preconditions set forth in (B) above, the Employer may lay off employees within their respective seniority units as defined in the Agreement.*
- 3. Seniority units for purposes of layoff.** *Seniority units within the categories of full-time regular, part-time regular, and part-time flexible, will consist of all non-protected persons at a given level within an established craft at an installation unless the parties agree otherwise. It is the intent to provide the broadest possible unit consistent with the equities of senior non-protected employees and with the efficient operation of the installation.*
- 4. Union representation.** *Chief stewards and Union stewards whose responsibilities bear a direct relationship to the effective and efficient representation of bargaining unit employees shall be placed at the top of the seniority unit roster in the order of their relative craft seniority for the purposes of layoff, reduction in force, and recall.*
- 5. Reduction in force.** *If an excess of employees exists at an installation after satisfaction of the preconditions set forth in (B) above and after the layoff procedure has been applied, the Employer may implement a reduction in force as defined above. Such reduction will be conducted in accordance with statutory and regulatory requirements that prevail at the time the force reduction is effected. Should applicable law and regulations require that other non-protected, non-preference eligible employees from other seniority units be laid off prior to reduction in force, such employees will be laid off in inverse order of their craft seniority in the seniority unit.*

D. Recall Rights

- 1.** *Employees who are laid off or reduced in force shall be placed on recall lists within their seniority units and shall be entitled to remain on such lists for two years. Such employees shall keep the Employer informed of their current address. Employees on the lists shall be notified in order of craft seniority within the seniority unit of all vacant assignments in the same category and level from which they were laid off or reduced in force. Preference eligibles will be accorded no recall rights greater than non-preference eligibles except as required by law. Notice of vacant assignments shall be given by certified mail, return receipt requested, and a copy of such notice shall be furnished to the local Union president. An employee so notified must acknowledge receipt of the notice and advise the Employer of his or her intentions within 5 days after receipt of the notice. If the employee accepts the position offered he or she must report for work within 2 weeks after receipt of notice. If the employee fails to reply to the notice within 5*

offer the vacancy to the next employee on the list. If an employee declines the offer of a vacant assignment in his or her seniority unit or does not have a satisfactory reason for failure to reply to a notice, the employee shall be removed from the recall list.

The term “non-protected” referenced above refers to employees who are not “protected” as defined by Article 6. In order to gain protection, career letter carriers must meet one of the conditions set forth in Article 6, Sections 1 and 2, which state in pertinent part:

- (1) Each employee who is employed in the regular work force as of the date of the Award of Arbitrator James J. Healy, September 15, 1978, shall be protected henceforth against any involuntary layoff or force reduction.*
- (2) Employees who become members of the regular work force after the date of this Award, September 15, 1978, shall be provided the same protection afforded under (1) above on completion of six years of continuous service and having worked in at least 20 pay periods during each of the six years.*

The term “regular work force” for purposes of layoffs and reduction in force is defined in Article 7 of the National Agreement:

7.1.A. Regular Work Force. *The regular work force shall be comprised of two categories of employees which are as follows:*

- 1. **Full-Time.** Employees in this category shall be hired pursuant to such procedures as the Employer may establish and shall be assigned to regular schedules consisting of five (5) eight (8) hour days in a service week.*
- 2. **Part-Time.** Employees in this category shall be hired pursuant to such procedures as the Employer may establish and shall be assigned to regular schedules of less than forty (40) hours in a service week, or shall be available to work flexible hours as assigned by the Employer during the course of a service week.*

This language makes it clear that all career employees are part of the “regular work force” for purposes of implementing Article 6 of the National Agreement.

The National Agreement provides that, except for shop stewards, among non-protected employees, veterans’ preference eligible employees would be the last letter carriers affected if the Postal Service instituted involuntary separations for lack of work or other legitimate, non-disciplinary reasons. Preference eligible veterans may also appeal reduction in force actions through MSPB. This provision is found in Section 666.23 of the ELM which states:

666.23 Adverse Action Appeals to the Merit Systems Protection Board

All employees eligible for veterans’ preference and certain other nonbargaining unit employees with one year of current continuous service in the same or similar position may appeal removals, reductions in grade or pay, suspensions of more than 14 days, or furloughs of 30 days or less. The appeal must be made to the Merit Systems Protection Board (MSPB) within 30 days of the effective date of the action. Preference eligible employees may also appeal reduction-in-force (RIF) actions to the MSPB.

Reinstatement

Career letter carriers sometimes leave the Postal Service and then decide they want to return to USPS. The Postal Service has the option of filling career positions by rehiring former career employees through a process called “reinstatement,” which is the noncompetitive appointment of an eligible individual. Eligibility for reinstatement depends on the individual’s length of service and veterans’ preference eligible status.

An individual has reinstatement eligibility if he or she previously served for any amount of time in one or more career appointments in the Postal Service, or previously served for any amount of time in other federal entities in career-conditional or career appointments in the competitive service. The “competitive service” refers to federal jobs filled according to the Office of Personnel Management’s (OPM) hiring rules, pay scales, examinations, etc.

Some employees’ reinstatement eligibility, however, is limited. According to Section 233 of Handbook EL-312, *Employment and Placement*, non-preference eligible employees with less than three years of continuous service (i.e. without a break of more than three calendar days) have reinstatement eligibility for only three years after separation. Preference eligible employees with any amount of service and employees with at least three years of service have no time limit on their reinstatement eligibility. Section 233 of Handbook EL-312 provides the following relevant language concerning service requirements for reinstatement:

233.332 Service Requirement for Reinstatement

An individual has reinstatement eligibility if he or she meets one of the following two service requirements stated in items a. or b.; the requirements of 233.333; and any applicable requirements of 233.334:

- a. *The individual previously served for any period of time in **career appointment(s)** in the Postal Service [emphasis added].*
 - (1) *An individual is **ineligible** for reinstatement if his or her previous service was **only** in noncareer appointment(s) in the Postal Service [emphasis added].*
 - (2) *Examples of current and past Postal Service noncareer appointment types:*
 - (a) *Temporary employee;*
 - (b) *Transitional employee;*
 - (c) *Casual employee;*
 - (d) *Postal support employee;*
 - (e) *Temporary relief carrier;*
 - (f) *Rural carrier associate;*
 - (g) *Rural carrier relief;*
 - (h) *Substitute rural carrier;*
 - (i) *Auxiliary rural carrier;*
 - (j) *City carrier assistant;*
 - (k) *Mail handler assistant;*
 - (l) *Postmaster relief/leave replacement;*
 - (m) *Postmaster relief (Remotely Managed Post Office); and*
 - (n) *Postmaster relief (Part Time Post Office).*
- b. *The individual previously served for any period of time in other federal entities in career-conditional or career appointment(s) in the competitive service.*
 - (1) *Individuals hired into a permanent position in other federal entities are hired under one of the following three types of appointments:*
 - (a) *Competitive service appointment.*
 - (i) *Most individuals hired into the competitive service are appointed under a career-conditional appointment and converted to a career appointment after serving 3 years of substantially continuous, creditable service.*
 - (ii) *In limited cases, individuals are hired into the competitive service directly under a career appointment rather than under a career-conditional appointment.*
 - (b) *Excepted service appointment.*

- (c) *Senior Executive Service (SES) appointment.*
- (2) *An individual who previously served in only excepted service and/or SES appointment(s) in other federal entities is ineligible for reinstatement to a career position in the Postal Service.*
- (3) *Many non-postal federal entities have a combination of competitive service, excepted service, and/or SES appointments.*
 - (a) *Some non-postal federal entities have only excepted service appointments, while some have component(s) that have only excepted service appointments.*
 - (b) *Exhibit 233.34 contains a partial list of non-postal federal entities and components that have only excepted service appointments.*
- (4) *The type of appointment under which an individual served in another federal entity is often indicated on the records documenting the individual's appointment, e.g., the Standard Form 50, Notification of Personnel Action, used by many other federal entities.*

Handbook EL-312 goes on to clarify that even though an individual has prior career federal service, he or she must still be qualified for the position sought:

233.333 Qualification Requirements for Reinstatement

In order to have reinstatement eligibility for a particular career position, an individual must meet all of the qualification requirements for the position, including any examination(s).

In addition, some individuals lose their eligibility for reinstatement. Handbook EL-312 also explains who is affected, and under what circumstances:

233.334 Time Limit for Reinstatement

Even if an individual meets the requirements in 233.332 through 233.333, there may be a time limit on his or her reinstatement eligibility, depending on the following factors:

- a. **Veterans' preference eligible:** *no time limit on reinstatement eligibility. There is no time limit on reinstatement eligibility of an individual who is veterans' preference eligible [emphasis added].*

Note: *For the purpose of reinstatement eligibility, an individual is considered to be veterans' preference eligible if he or she meets the statutory and regulatory requirements for veterans' preference eligibility status on or before the effective date of reinstatement.*

The individual need not have met those requirements on the effective date of his or her separation from the last career appointment in the Postal Service or last competitive service appointment in another federal entity upon which reinstatement eligibility is based.

- b. **Non-veterans' preference eligible:**
 - (1) *With 3 or more years of substantially continuous creditable service: no time limit on reinstatement eligibility.*
There is no time limit on reinstatement eligibility of an individual who is non-veterans' preference eligible but previously completed 3 or more years of substantially continuous (i.e., no break in service of more than 3 calendar days) creditable service in:
 - (a) *Postal Service career appointment(s);*
 - (b) *Competitive service appointment(s) in other federal entit(ies); or*
 - (c) *A combination of paragraphs (a) and (b).*
 - (2) *Without 3 or more years of substantially continuous creditable service: 3-year time limit on reinstatement eligibility.*
An individual who is non-veterans' preference eligible and who does not meet the 3 or more years of substantially continuous creditable service requirement stated in paragraph 233.334b.1 has reinstatement eligibility for only the 3 years following the date of his or her separation from the following:
 - (a) *The last career appointment in the Postal Service upon which reinstatement eligibility is based; or*

- (b) *The last competitive service appointment in another federal entity upon which reinstatement eligibility is based.*

Section 233.335 of Handbook EL-312 explains how reinstatement relates to a separation due to reduction in force:

233.335 Reinstatement Following RIF-Related Separation

In addition to reinstatement under 233.331 through 233.334, a former Postal Service career nonbargaining employee may be reinstated (i.e., noncompetitively appointed) to certain positions under certain conditions following a reduction in force (RIF)-related separation under the provisions set forth in Employee and Labor Relations Manual (ELM), 354.27, Establishing a Reinstatement List:

- a. *The applicable procedures set forth in Management Instruction EL-500-2010-4, Contracting With Individuals or Rehiring Into Career Nonbargaining Positions, also must be complied with in respect to this type of reinstatement.*
- b. *A former Postal Service career nonbargaining employee who is not reinstated under ELM 354.27 to a position following a RIF-related separation may be appointed to that position on some other noncompetitive basis or on a competitive basis.*

Section 354.27 of the *Employee and Labor Relations Manual (ELM)*, referenced in the previous excerpt from Handbook EL-312, provides procedures for establishing reinstatement lists to ensure preference eligible veterans receive appropriate consideration to return to postal employment:

354.27 Establishing a Reinstatement List

354.271 Providing Priority Consideration to Employees

A reinstatement list (RL) identifies career preference-eligible employees who are eligible for priority consideration for reinstatement to the Postal Service because they have been separated as a result of a reduction-in-force (RIF).

An RL is established the day after the RIF effective date if one or more employees have been found eligible for placement on the RL. The RL remains in effect for 2 years following its establishment or until no eligible employees remain on the RL, whichever is earlier.

Note: Acceptance of an employee's PS Form 999, Application for Reinstatement List, and placement on the RL does not guarantee the employee's reinstatement to the Postal Service.

354.272 Determining Employee Eligibility

A career employee is eligible to be placed on an RL if all conditions listed below occur:

- a. *The employee is preference eligible for RIF purposes, as defined in section 354.215.*
- b. *The employee received a specific RIF notice indicating that he or she will be separated from the Postal Service, and that notice has not been canceled or rescinded. An employee who retires on or before the RIF effective date is eligible for placement on the RL, provided he or she meets all other eligibility requirements.*
- c. *The employee does not refuse an offer of a position under 5 C.F.R. part 351, subpart G, with the same type of work schedule and with a representative rate at least as high as that of the position from which the employee was or will be separated.*
- d. *The employee's last merit performance rating of record before separation was better than a non-contributor for RIF purposes or its equivalent.*
- e. *The employee submits an Application for Reinstatement List no later than the RIF effective date.*
- f. *The employee is at least minimally qualified for one or more of the positions identified on the Application for Reinstatement List.*

354.273 Considering Employees on a Reinstatement List

Provisions for reinstatement list consideration are as follows:

- a. *Eligible RL applicants are provided initial consideration before external advertisement of a vacant position within their competitive area and all other competitive areas within commuting*

distance not undergoing an organizational change/RIF action. Consideration is limited to those applicants who are at least minimally qualified for the vacant position.

Note: A vacant position does not include positions that are filled through other special programs, such as the restoration of individuals who served in the uniformed services and the reemployment or reassignment of employees injured on duty who recover within one year.

- b. Human Resources maintains the RL and checks the list before publishing external job postings.*
- c. Positions identified by eligible RL applicants on their Application for Reinstatement List form for which they are at least minimally qualified must be:
 - (1) Authorized positions.*
 - (2) At the same or lower grade level (or representative rate) as the position held before separation due to a RIF action.**
- d. If an otherwise eligible RL applicant is found to be at least minimally qualified for a position identified on his or her Application for Reinstatement List, he or she must be offered the position before external applicants are considered.*

Veterans should be aware that previous career federal service, in either the Postal Service or another federal agency, could be beneficial when seeking employment with the Postal Service. The information in this section will help veterans ensure they are given proper consideration when applying for reinstatement.

Conclusion

The National Association of Letter Carriers is fortunate to count so many veterans among our ranks. The NALC Veterans Group works hard to ensure those who served in the military have ready access to needed resources, and this Veterans Guide is an important part of that effort. We hope it comes in handy for quick reference when questions arise. If more information is needed on any of the topics covered in the Guide, veterans should contact their national business agent's (NBA) office or visit any of the resources listed on the following page. Contact information for the NBA who covers your region can be found on the NALC website at <https://www.nalc.org/union-administration/nalc-regions>.

Resources

NALC Websites:

www.nalc.org

www.nalc.org/veterans

www.nalc.org/workplace-issues/resources/materials-reference-system

USPS – LiteBlue:

www.liteblue.usps.gov

Employee Assistance Program (EAP):

1-800-EAP4YOU (1-800-327-4968) (TTY: 877-492-7341)

<https://usps.ndbh.com/>

Office of Personnel Management:

<https://www.fedshirevets.gov/job-seekers/veterans/>

<https://www.fedshirevets.gov/federal-employees/>

<https://www.opm.gov/policy-data-oversight/veterans-services/vet-guide-for-hr-professionals/>

Department of Labor:

<https://webapps.dol.gov/elaws/vetspref.htm>

Department of Veterans Affairs:

www.va.gov

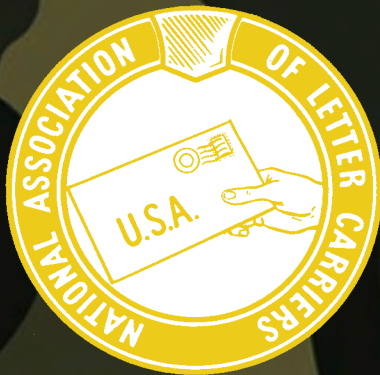
VA - 24/7 Veterans Crisis Line:

1-800-273-TALK (1-800-273-8255) (TTY: 800 799 4889)

www.VeteransCrisisLine.net

Merit Service Protection Board (MSPB):

www.mspb.gov



NALC Veterans Group

**100 Indiana Ave. NW
Washington, DC 20001**

202-423-2443

www.nalc.org/veterans

