

January 18, 2006

PERSL #1394

TO: Human Resource Directors/Designees

FROM: Paul Larson, Deputy Commissioner
Labor Relations and Total Compensation Division 

PHONE: (651) 259-3770

RE: Final USERRA Rules and Regulations

On December 16, 2005, the Labor Department's Veterans Employment and Training Service released final rules to implement the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"). The regulations, effective January 18, 2006, pose no new legal requirements but interpret and clarify existing rights and responsibilities of returning military service members and employers. The final regulations may be viewed at <http://www.dol.gov/vets/regs/fedreg/final/2005023961.pdf>.

All employers are required to notify employees of their rights under USERRA. The notice must explain what rights and protections employees have under the Act, including the right to re-employment after uniformed service, freedom from discrimination and retaliation for serving in uniform, and certain health insurance protections. The U.S. Department of Labor has prepared a poster that an employer can use to fulfill the requirement. The poster is available at http://www.dol.gov/vets/programs/userra/USERRA_Private.pdf. The notice must be posted in a prominent place where employees customarily check for such information. **Please note that this poster replaces the version published in March 2005.**

Clarifications set forth in the final regulations include but are not limited to:

- Employees serving in uniformed services may be laid off during military service (but not BECAUSE of military service). Any layoffs should be discussed with the Human Resources office.
- The period between completing the uniformed service and reporting back to work or seeking re-employment does not count against the five-year maximum for reinstatement rights.
- The following service qualifies for USERRA protection: National Disaster Medical System activation by FEMA; commissioned corps of the Public Health Service; exam to determine a service member's fitness to perform duty in the uniformed services; performing authorized funeral honors (veterans' service organizations are excluded); and attending a military service academy. State of MN employees performing these services may also be compensated from their balance of 15 days annual paid military leave.
- Employers are required to grant time off from work to prepare for active duty if requested by the activated service member.
- Upon reinstatement, employers must pay any progression increases that the employee would have received had employment not been interrupted by military service.

If you have questions, please contact your DOER Labor Relations Representative.

Equal Opportunity Employer