

# Protections Against Employment Discrimination for Service Members and Veterans

Jointly Authored By:

[U.S. Department of Labor Office of Federal Contract Compliance Programs \(OFCCP\)](#)

[U.S. Department of Labor Veterans' Employment and Training Service \(VETS\)](#)

[U.S. Department of Justice Civil Rights Division \(CRT\)](#)

[U.S. Equal Employment Opportunity Commission \(EEOC\)](#)

Service members and veterans have made great sacrifices to guarantee the freedoms and liberties that all Americans enjoy. And service members and veterans themselves are also guaranteed rights, such as the right to be free from discrimination in civilian employment. This document helps explain where to get help if you are a service member or veteran and you feel that you have been discriminated against in employment because of your military status, veteran status, or another protected basis.

## Veterans and Service Members are Protected Against Employment Discrimination

Two federal laws prohibit discrimination in employment based on your status as a service member or veteran:

- The **Uniformed Services Employment and Reemployment Rights Act (USERRA)** prohibits civilian employers from discriminating against you based on your present, past, and future military service. It also entitles service members, such as National Guard members and reservists, who leave their civilian employment to perform covered military service to prompt reemployment with their pre-service employer following the completion of their duty. This means that service members who meet the eligibility criteria for reinstatement must be promptly reemployed with their pre-service employers with the seniority, status, and rate of pay that they would have obtained with reasonable certainty had they remained continuously employed.
- The **Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA)** prohibits federal contractors and subcontractors from discriminating in employment against protected veterans and requires employers take affirmative action to recruit, hire, promote, and retain these individuals. This protection against discrimination extends not only to spouses, but also to other individuals that the contractor knows have a relationship or association with a protected veteran.

Additional federal laws prohibit employment discrimination against applicants and employees for other reasons that veterans and service members may face, including:

- The **Americans with Disabilities Act of 1990** makes it illegal for employers to discriminate against qualified job applicants and employees based on their physical or mental disabilities, including failing to provide a reasonable accommodation to a

qualified employee or applicant. Section 501 of the Rehabilitation Act of 1973 applies the same standards to federal agency employers.

- **Section 503 of the Rehabilitation Act of 1973** prohibits federal contractors and subcontractors from discriminating in employment against individuals with disabilities, including failing to provide a reasonable accommodation to a qualified employee or applicant. It also requires employers to take affirmative action to recruit, hire, promote, and retain these individuals.
- **Title VII of the Civil Rights Act of 1964** prohibits discrimination based on race, color, national origin, sex (including pregnancy, sexual orientation, and gender identity), and religion.
- **The Equal Pay Act of 1963** requires that men and women in the same workplace be given equal pay for equal work.
- The **Age Discrimination in Employment Act of 1967** protects people who are 40 or older from discrimination because of age.
- The **Genetic Information Nondiscrimination Act of 2008** prohibits discrimination based on genetic information (which includes family medical history).
- **The Immigration and Nationality Act's Anti-Discrimination Provision** prohibits discrimination based on citizenship, immigration status, and national origin (for [certain employers](#) not covered under Title VII).
- **Executive Order 11246** prohibits federal contractors and subcontractors from discriminating on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin and requires affirmative action to promote equal opportunity. Contractors also are prohibited from discriminating against applicants or employees because they inquire about, discuss, or disclose their compensation or that of others, subject to certain limitations.

Employers are also prohibited from retaliating against you, for example threatening to withhold a promotion or firing you, for asserting your rights under these laws or otherwise participating in protected activity. Examples of protected activity include filing a complaint or participating in an investigation.

### **Do You Qualify for USERRA's Reemployment Rights?**

To qualify for USERRA's reemployment rights, you must be a service member and generally meet the following eligibility criteria:

- You must have left a civilian job to perform covered service;
- You must have given notice to the employer that you were leaving to perform military service (orally or in writing);
- You have had five years or less of cumulative service with the covered employer (although there are a number of exceptions to this rule);
- You must not have a disqualifying discharge (dishonorable, other than honorable, or bad conduct); and

- You must have reported back to work within the appropriate time constraints (which are dependent on the time spent on covered military service).

More information on who qualifies for USERRA protections can be found on the [VETS](#) and [CRT](#) webpages.

### **How Do You Assert Your Rights Under USERRA?**

You can seek assistance for enforcing your rights under USERRA with the federal government, or by filing a lawsuit directly in court with your own lawyer.

**VETS** investigates and resolves complaints of USERRA violations. For assistance in filing a complaint, or for other information on USERRA, visit the VETS [website](#). An interactive online USERRA Advisor is also available [here](#).

If you file a complaint with VETS and the agency is unable to resolve the matter to your satisfaction, you may request that your case be referred to the Department of Justice or the [Office of Special Counsel](#), as applicable, for representation.

**CRT** has authority to bring lawsuits against private, state, and local government employers for violations of USERRA but only upon receiving complaint referrals from VETS. If CRT lawyers are reasonably satisfied that the service member is entitled to relief after receiving a referral, CRT may commence an action in federal court.

Please note that CRT may not be able to bring a lawsuit in every case that is referred to it but reviews every referral carefully. For more information, please see the Department of Justice's Servicemembers and Veterans Initiative [webpage](#).

### **Do You Qualify as a "Protected Veteran" Under VEVRAA?**

Under VEVRAA, if you served active duty in the U.S. military and were discharged or released for reasons other than dishonorable you may be a protected veteran in one or more of the following categories:

- Disabled veterans
- Recently separated veterans
- Active duty wartime or campaign badge veterans
- Armed Forces service medal veterans

More information on VEVRAA protections is located on the **OFCCP** [VEVRAA website](#). OFCCP's [Infographic](#) includes information on who qualifies as a protected veteran.

## **How do You Assert Your Rights Under VEVRAA?**

You can file a complaint with **OFCCP** if you believe your rights as a worker have been violated or if you believe a federal contractor has been discriminatory in its practices. OFCCP is committed to workers' rights and will investigate complaints filed against federal contractors.

More information on filing a complaint with OFCCP can be found [here](#). You can also find additional information on protected veterans' rights [here](#) and on [worker.gov](#).

## **Which Agency Should You Contact for Assistance with Employment Discrimination on Other Bases?**

Contact the **EEOC** if you believe you have been discriminated against by an employer, labor union, or employment agency as an employee or applicant because of your race, color, national origin, sex (including pregnancy, sexual orientation, or gender identity), religion, age (over 40 years old), disability, genetic information, or in retaliation for opposing a prohibited practice or participating in an equal employment opportunity matter.

Contact **OFCCP** if you believe that you have been discriminated against by an employer doing business with the Federal Government based on race, color, religion, sex, sexual orientation, gender identity, national origin, or disability. You can also contact OFCCP if you asked about or discussed your pay or that of a co-worker and you were fired, demoted, or disciplined because of it.

Contact **CRT's** Immigrant and Employee Rights Section if you believe that you have been discriminated against by an employer because of your citizenship, immigration status, or national origin.

## **Do You File a Charge or Complaint Alleging Discrimination with EEOC or OFCCP?**

Contact **EEOC** to file a charge if you believe you have been discriminated against, harassed, or subjected to retaliation by an employer. Most of the laws enforced by EEOC require you to file a charge before you can file a discrimination lawsuit. In addition, an individual, organization, or agency may file a charge on your behalf in order to protect your identity. EEOC's [website](#) provides more information on filing a charge, including links to its online [public portal](#) and important [time limits](#). Federal employees and job applicants have similar protections but follow a different complaint [process](#).

Contact **OFCCP** to file a complaint if you believe your rights as a worker have been violated or if you believe a federal contractor has been discriminatory in its practices. OFCCP is committed to workers' rights and will investigate complaints filed against federal contractors. OFCCP's [website](#) provides more information on filing a complaint.

CRT works with the EEOC and OFCCP to enforce laws such as Title VII, the Americans with Disabilities Act, and the Genetic Information Nondiscrimination Act. The EEOC and OFCCP may refer certain charges of discrimination to CRT for enforcement, including where the employer is a state or local government entity.

### **Other CRT-DOL-EEOC Resources for Protecting the Rights of Veterans and Service Members**

CRT's Servicemembers and Veterans Initiative [website](#) has more information about other rights and protections, including those related to [finance and housing](#), [voting](#), [consumer protection](#), [disability status](#), and more. You can also contact CRT to submit a report if you believe your civil rights, or someone else's, have been violated [here](#).

OFCCP's [website](#) contains information about programs that provide services and support to veterans and their families addressing employment, education, housing, medical, and other topics. [VEVRAA](#) also requires federal contractors and subcontractors to take [affirmative action](#) to recruit, hire, promote, and retain veterans. More information can be found [here](#).

VETS's [website](#) includes additional resources for veterans and military spouses, including off-base transition training, information on apprenticeship and the civilian transition, and veteran unemployment rate information. The Department of Labor also provides more information on its veterans employment [website](#).

EEOC's [website](#) provides more information for veterans with disabilities, including a [resource document](#) that helps explain your workplace rights and responsibilities. Additional information on the Americans with Disabilities Act and mental health conditions can be found [here](#).