



USERRA GUIDE

NG-J1-TN

DISTRIBUTION: A

[12 February 2016]

A GUIDE FOR UNIFORMED SERVICE EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT FOR NATIONAL GUARD TECHNICIANS

References: See Enclosure N.

1. Purpose. The Guide to Employment and Reemployment Rights for National Guard Technicians is designed to be a “ready reference” that provides advice and basic guidance on issues relating to human resources management. Although the contents are not regulatory in nature, the guidance is based on Federal statutes and regulations, as well as Department of Defense (DoD) and National Guard Bureau (NGB) policy. Chapter 43 of Title 38 U.S.C. must be consulted on all matters related to the employment and reemployment rights for National Guard Technicians serving in the uniformed service. It is recommended that you also consult 5 CFR 353, Restoration to Duty from Uniformed Service, and 20 CFR Part 1002, Uniformed Services Employment and Reemployment Rights Act of 1994; Final Rules.
2. Superseded/Cancellation. This is the initial publication of the Uniformed Service Employment and Reemployment Rights for National Guard Technicians Guide.
3. Applicability. This manual applies to all Army and Air National Guard dual-status and non-dual status technicians. It contains general guidance to be used by managers, supervisors, and technicians relating to the administration of absence and leave for technicians.
4. Procedures. See Enclosures A through M.
5. Summary of Changes. This is the initial publication of the Uniformed Service Employment and Reemployment Rights for National Guard Technicians Guide.
6. Releasability. This Guide is approved for public release; distribution is unlimited. NGB Directorates, TAGs, the Commanding General of the District of Columbia and Joint Force Headquarters (State) may obtain copies of this Guide through www.ngbpd.c.ngb.army.mil or on Guard Knowledge Online (GKO). .

7. Effective Date. This instruction is effective upon publication.

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ENCLOSURE A

RESPONSIBILITIES

1. The Adjutant General (TAG). For purposes of Uniformed Services Employment and Reemployment Rights Act (USERRA), each respective state's TAG is the employer. Overall implementation and adherence of Title 38 USC Chapter 43, Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994; 5 CFR Part 353, Return to Duty from Uniformed Service; and 20 CFR Part 1002, Uniformed Services Employment and Reemployment Rights Act of 1994 within the state is the responsibility of the TAG. Thereby, the TAG ensures reemployment rights are extended to technicians who have been absent from a position of employment because of service in the uniformed services. As the military commander for the technician program and the state National Guard, the TAG has authority to manage the technician workforce and the state military units. The authority of the TAG to approve or disapprove a technician's request to be militarily reassigned to another unit or mission, to include a unit about to be mobilized, does not conflict with USERRA.
2. Human Resources Officer (HRO). The TAG delegated authority responsible for the execution of the rights and provisions of USERRA.
3. The Human Resources Office (HRO). The Human Resources Office (HRO) is responsible for advising managers, supervisors, and technicians regarding the rights and provisions of USERRA.
4. Technician. Technicians are responsible for providing notification to their supervisor, prior to entering uniformed services whenever possible. Notice should be in writing; however, the technician may provide oral notice. No prior notification is required if providing notice is unreasonable or impossible or if military necessity prevents it. The technician is also responsible for timely notification of intent to exercise restoration rights.

ENCLOSURE B

TECHNICIAN STATUS

1. Technician Status While Performing in a Uniformed Service. Technicians who enter uniformed service may be placed in Absent Uniformed Service (Absent-US) or Separation Uniformed Service (Separation-US) status. Either status affords the technician reemployment.

a. A technician absent because of service in the uniformed services is to be carried on leave without pay unless the technician elects to use other leave or freely and knowingly provides written notice of intent not to return to a position of employment with the agency, in which case the technician can be separated.

b. A separation under this provision affects only the technician's seniority while gone; it does not affect his or her restoration rights.

2. Use of Paid Time Off While on Absent-US. A technician performing service with the uniformed services must be permitted, upon request, to use any accrued leave under [5 USC 6304](#), military leave under [5 USC 6323](#), earned compensatory time off for travel under [5 USC 5550b](#), or sick leave under [5 USC 6307](#), if appropriate during such service.

a. Per OPM and NG-J1-TN policy, Time-Off Awards (TOAs) can be used while on military duty. Time-Off Awards forfeited while performing services with the Uniformed Services may be restored upon Return to Duty.

b. Compensatory time (not for travel) may be restored upon return to duty from uniformed service.

c. The employer may not require the technician to use accrued vacation, annual, or similar leave during a period of service in the uniformed services.

ENCLOSURE C

BENEFITS AFFECTED BY UNIFORMED SERVICE

1. Federal Employee Health Benefits Coverage / (FEHB). A technician subject to the provisions of [P.L. 108-375](#) is eligible for continued Federal Employee Health Benefits (FEHB) coverage up to 24 months when called to active duty and certain requirements (including serving in support of a contingency operation) are met. A technician subject to the provisions of [P.L. 108-375](#) is eligible for FEHB coverage for 24 months when absent because of service in the uniformed service and certain requirements are met.

2. Federal Employee Group Life Insurance (FEGLI). Federal Group Life Insurance (FEGLI) coverage continues until the technician's time in a non-pay status totals 12 months at no cost to the technician. A technician may elect to have the life insurance continue (beyond the end of the 12 months of coverage provided) for an additional 12 months and arrange to pay currently into the Employee's Life Insurance Fund through the technician's agency (both technician and agency contributions from the beginning of that additional 12 months of coverage).

3. Thrift Savings Plan. The Uniformed Services Employment and Reemployment Rights Act of 1994 contains several provisions regarding the Thrift Savings Plan.

a. The maximum contribution amount a technician may make should equal the amount they would have made over the period beginning on their date of separation or commencement of leave-without-pay status and ending on the day before the date of restoration or reemployment.

b. Reemployed technicians are entitled to employer contributions or benefits that are contingent on technician contributions. In such a situation, the employer is required to make any contributions that are contingent on technician make-up contributions or elective deferrals only to the extent that the technician makes contributions.

4. Retirement. The period of military service is not creditable for retirement unless service deposits are paid in full prior to the date of separation or retirement. Technicians who are anticipating retirement should plan accordingly, because processing time requires approximately 120 days.

a. Full-time National Guard duty (as defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with [Chapter 43 of title 38](#) that occurs on or after 1 August 1990 is considered potentially creditable service requiring deposit to be made.

ENCLOSURE D

REEMPLOYMENT

1. Reemployment Rights. Reemployment rights following military service are limited to five cumulative years. The respective Adjutant General of each state is considered “the employer”. Title 32 and Title 10 military service counts toward the 5-year limit unless specifically exempted under [38 USC 4312](#).

a. Title 32 military duty performed on 11 December 1994 or earlier is exempt from the 5-year limit. Beginning on 12 December 1994, Title 32 military duty counts toward the 5-year limit, unless performed for training under 32 USC 502(a) or 503, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining.

b. Technicians are required to notify an agency designated representative of the intention to return to work upon completion of military service. Notification will be provided as follows:

(1) Technicians who serve for periods of service in the uniformed services for less than 31 days, by reporting to the state no later than the beginning of the next regularly scheduled work period upon the expiration of 8-hours after a period allowing for the safe transportation of the technician from the place of service to the technician’s residence.

(2) Technicians who serve for more than 30 days but less than 181 days, by submitting an application for reemployment with the state no later than 14 days after the completion of the period of service; or if submitting such application within such period is impossible or unreasonable through no fault of the technician, the next first full calendar day when submission of such application becomes possible.

(3) Technicians who serve for more than 180 days, by submitting an application for reemployment with the state no later than 90 days after the completion of the period of service.

(4) Technicians who fail to meet these time limits do not automatically forfeit USERRA rights, but may be subject to non-disciplinary action in accordance with (IAW) [TPR 715](#), Voluntary and Non-Disciplinary Actions.

(5) A technician returning from uniformed services following an absence of more than 30 days is entitled to be restored as soon as possible after making an application, but in no event later than 30 days after receipt of the application by the agency ([5 CFR 353.207](#) and [20 CFR 1002.180](#)).

(6) Technicians who indicate no intention of returning or fail to respond to notice are considered to have abandoned their position and should be terminated effective one day following the last day of the 5-year USERRA limit.

(7) Separation will be effective one day after the last day of the 5-year USERRA limit when the technician chooses not to restore upon reaching five cumulative years of uniformed service.

(8) Technicians who submit, in writing, a request to voluntarily separate at the time of entering uniformed service will be separated on the date requested.

c. A technician returning from uniformed service:

(1) Must apply for reemployment in a timely manner,

(2) Must provide documentation validating separation from service was under honorable conditions, and

(3) May not have exceeded the 5-year service limitation.

d. Unavailable documentation will not prevent prompt reemployment of the technician. The TAG may terminate the technician after reemployment if documentation becomes available that shows one or more of the reemployment requirements were not met.

2. Reemployment. The responsibility for reemploying National Guard Technicians rests with the state. The escalator principle must first be applied in determining the reemployment position. Additional factors which determine the reemployment position are length of the technician's most recent period of uniformed service, the technician's qualifications, and whether the technician has a disability incurred or aggravated during uniformed service. Technicians will be reemployed in a position of employment in the following order of priority:

a. Reemployment positions for service of 90 days or less:

(1) The position the technician left or would have attained if continuously employed (the "escalator" principle) provided the technician is qualified to perform the duties, or

(2) The position in which the technician was employed on the date of the commencement of uniformed service if the technician is not qualified to perform the duties in paragraph 2a(1) of this section after reasonable efforts by management.

b. Reemployment of technicians after service of 91 days or more:

(1) The “escalator” position or a position of like seniority, status, and pay, the duties of which the technician is qualified or perform; or,

(2) The position in which the technician was employed at the beginning of uniformed service or a position of like seniority, status and pay, and duties the person is qualified to perform. Management may place a person under this paragraph only when they are not qualified to perform the duties of a position referred to in Paragraph 2b(1) after reasonable efforts by the state to qualify the technician.

c. Without regard to length of uniformed service, if not qualified or unable to become qualified, with reasonable efforts by the state for any of the above, then place in any other position lesser status and pay which the technician is qualified to perform, with full seniority.

d. The primary occupant of a position has the right to restoration in that position if two or more technicians are entitled to reemployment in the same position. The other technician(s) would be placed according to the order of priority described in Paragraph 2a or 2b above.

e. The state must reemploy a technician in another position of like status and pay if the obligated position is abolished while absent for uniformed service. The technician will be placed according to Paragraph 2 if such a position does not exist.

f. A technician under a time-limited appointment may complete the unexpired portion of the original appointment upon reemployment. There is no restoration right if the not-to-exceed date of the appointment has expired.

g. A technician under an indefinite appointment, will be:

(1) Reemployed for one year when the period of service before reemployment was for more than 180 days, or

(2) Reemployed for 180 days when the period of service is for more than 30 days and less than 181 days, or

(3) Separated for cause. Lack of funds, lack of work or the unavailability of a position for a returning indefinite technician is considered to be “for cause” and the individual may be separated with a 30-day advance notice.

h. A temporary technician returning from uniformed service has the right to complete any unexpired portion of their time-limited appointment if eligible for reemployment. Time-limited appointments that expire during uniformed service are considered to have ended, and there are no rights to reemployment.

i. Upon reemployment, a technician is generally entitled to be treated as though they had never left. Technician receives:

- (1) Rights and benefits based on seniority
- (2) Within grade increases
- (3) Completion of probation/trial period
- (4) Leave accrual
- (5) Severance pay

3. Loss of Reemployment Rights. A technician may lose reemployment rights under USERRA if:

a. The military service is characterized as:

- (1) Dishonorable
- (2) Bad conduct discharge
- (3) Under other than honorable conditions; or

b. The technician is a commissioned officer dismissed under section [1161a of Title 10](#); or

c. Dropped from rolls when the technician has been absent for more than three months or who is imprisoned by a civilian court pursuant to section [1161b of Title 10](#); or

d. The absence exceeds the 5-year cumulative limit for uniformed service with the state.

4. Denial of Reemployment Rights. As the employer, the TAG may determine that reemployment of a technician is impossible or unreasonable. Technicians with reemployment rights who fail to meet the military requirements of continued employment or are denied reemployment may be entitled to an offer of employment in an alternative position.

a. Some examples of circumstances that may lead to denial of reemployment are:

(1) The loss of military membership or inability to obtain military membership.

(2) Expiration of a time-limited appointment during period of military absence.

(3) Conversion of a technician position to an Active Guard Reserve (AGR) position and the lack of any other suitable position in the state for which the individual may be trained or qualified.

b. When reemployment is unreasonable or impossible, as determined by the TAG, an application will be submitted by NG-J1-TN to the Director of OPM for an alternative position in a Federal executive agency with like seniority, status, and pay that the technician is qualified to perform. There are no further restoration rights if the technician declines an offer of equivalent employment by OPM.

c. Individuals who are denied reemployment for reasons within their control, e.g., physical fitness, will not be offered OPM placement assistance.

ENCLOSURE E

STATE MERIT PROMOTION PLAN

1. The state Merit Promotion and Placement Plan must provide a means for technicians who are absent because of uniformed service to be considered for promotion or any other incident or advantage of employment they may have been entitled to if not absent for uniformed service.

a. State promotion plans must provide a mechanism by which technicians who are absent because of compensable injury or uniformed service can be considered for promotion.

b. In addition, states have an obligation to consider technicians absent on military duty for any incident or advantage of employment that they may have been entitled to had they not been absent.

c. This is determined by:

(1) Considering whether the “incident or advantage” is one generally granted to all technicians in that workplace and whether it was denied solely because of absence for military service;

(2) Considering whether the technician absent on military duty was treated the same as if the technician had remained at work; and

(3) Considering whether it was reasonably certain that the benefit would have accrued to the technician but for the absence for military service.

ENCLOSURE F

EXEMPTION OF MILITARY SERVICE

1. Exemption of Military Service from the 5-Year Limit. The following types of service are exempt from the 5-year limit for employment:

a. Full-time National Guard duty under section 502(f)(2)(A) of Title 32 when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by the Federal funds, as determined by the Secretary concerned.

b. Involuntary active duty in wartime, or retention on active duty while in captive status.

c. Involuntary active duty for national emergency up to 24 months; involuntary active duty for operational mission up to 270 days; involuntary retention of critical persons on active duty during a period of crisis or other specific conditions.

d. Ordered to active duty in support, as determined by the Secretary of the military department concerned, of a critical mission or requirement of the uniformed services.

e. Active duty in support of a war, national emergency, critical mission, or requirement must cite the specific statutory reference covering the exemption.

ENCLOSURE G

RETENTION DURING REALIGNMENT

1. USERRA requires retention of reemployed individuals, following military service for the periods specified below:

a. The retention period is for one year if the length of uniformed service was for more than 180 days.

b. The retention period is 80 days if the length of uniformed service was for more than 30 days but less than 181 days.

c. A technician may not be demoted or separated (other than for military separation) while performing uniformed service except for cause; workforce realignment is not considered "for cause".

ENCLOSURE H

PROTECTION FROM DISCRIMINATION

1. Protection from Discrimination and Retaliation Reprisals. The state is forbidden to discriminate against any employee or prospective technician, with regard to hiring, retention in employment, and promotion, or any benefit of employment because of past, present, or future application for membership in a uniformed service.

a. A person who is a member of, applies to be a member, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, application for membership, performance of service, application for service, or obligation.

b. A state may not take any reprisal against a technician for taking any action to enforce a protection, assist or participate in an investigation, or exercise any right provided for under [38 USC Chapter 43](#).

ENCLOSURE I

APPEAL RIGHTS

1. Appeal Rights. Technicians may file complaints with the appropriate district court if they believe they have been denied or refused employment or reemployment rights or benefits afforded them under USERRA.

a. Technicians do not have the right to appeal to the Merit Systems Protection Board for denial of reemployment rights by the TAG.

b. The Department of Labor only has regulatory oversight responsibility. They are required to accept and investigate complaints from individuals who believe the state has failed or refused to comply with provisions of USERRA.

ENCLOSURE J

USERRA COUNSELING

1. Technicians, regardless of tenure, who enter the uniformed service, in pay or non-pay status, must be provided information regarding their USERRA rights and Responsibilities.

a. The state will:

(1) Provide the technician with information about any applicable restoration rights after service is completed and explain those rights or refer the technician to a specialist who can explain them.

(2) Provide the technician with detailed information about any applicable benefits before, during, and after uniformed service.

(3) If applicable, ask the technician to state in writing whether any unused annual leave should be paid in a lump sum or held until technician returns.

(4) If the technician is determined to be covered by reservist differential provisions in [5 USC 5538](#), provide information about the program. The state will appropriately code eligibility for reservist differential for technicians as determine in the Guide to Data Standards.

APPENDIX A TO ENCLOSURE J

CHECKLIST

USERRA CHECKLIST FOR TECHNICIANS
ENTERING EXTENDED ACTIVE DUTY – ABSENT-US

Instructions: This checklist provides important information regarding your benefits. Fill in the blanks or initial as appropriate for each item listed below. Sign, date, and fax all pages of this document as well as your military orders to the Human Resources Office, Employee Benefits Specialist within 31 days of the date you enter on active duty. You should also provide a copy of both documents to your immediate supervisor and your local or servicing personnel office, as well as keep a copy for your own records and future reference.

Full Name (Print) _____ SSN _____

____DOB _____

Home Address _____ Telephone contact Number _____

Date of Entry on Active Duty Specified in Orders _____

Note: Technicians are responsible for providing notice of their deployment to their agency as far in advance as reasonable.

I want to be: (initial one and provide effective date)

____Placed on Absent - Uniformed Service, effective _____

____Separated, effective _____

Leave:

____I have military leave that I want to use. Number of days: _____

____I want to use part of my annual leave. Number of days: _____

____I want my annual leave to remain to my credit. OR

____I want to be paid a lump sum for my annual leave balance.

Health Benefits: (initial to terminate or continue) *Note: You must contact your Human Resources office as soon as you return to your technician position. It is the technician's responsibility to ensure that FEHB coverage and premiums resume upon return to duty.*

____**My military service is for 30 days or less** - my coverage will continue. I need make no further election regarding health benefits, unless my military service is later extended past 30 days.

____ **I want to terminate my FEHB coverage** effective the day before entering on active duty or the day I am separated, furloughed, or placed on absent - uniformed service.

OR

____ **I want to continue my FEHB coverage:** (initial one)

____ I am being called to active duty in support of a contingency operation. My agency will pay my share of the FEHB premium for up to 24 months. The 24-month period starts the date I am placed on absent - uniformed service.

____ My active duty is not in support of a contingency operation. I am entitled to up to 24 months of continued FEHB coverage beginning the date my absence from my civilian position begins (i.e., the effective date of my entrance on active duty). I choose to pay for my FEHB by: (initial one)

____ Making current payments on a continuing basis during my absence (with after-tax money). After the first 12 months, I will pay 102% of the cost; the final 12 months must be paid on a current basis.

____ Incurring a debt to be paid upon my return to civilian duty (on a pre-tax basis if I participate in Premium Conversion) for the first 12 months. After the first 12 months, my share will be 102% of the cost and it must be paid on a current basis.

Premium Conversion:

____ I understand that if I am participating in Premium Conversion, I have 60 days from the start of my absent - uniformed service to waive that participation, which would allow me to cancel my FEHB coverage at any time later. If I do not waive my premium conversion within the 60-day limit, I cannot later cancel my FEHB except during the annual FEHB open season or within 60 days after another qualifying life event.

Transitional TRICARE:

____ Upon my return to my civilian position I will notify my employing office if I want to waive reinstatement of FEHB coverage due to having transitional TRICARE coverage.

Life Insurance: (if enrolled)

____ I understand that my FEGLI coverage will continue for 12 months in nonpay status (absent - uniformed service) at no cost. Public Law 110- 181 now allows employees to continue their FEGLI enrollment for an additional 12 months, for a total of 24 months. Technicians will pay both employee and agency share of the premiums for basic and any Optional insurance. There is no agency share for the Optional insurance.

____ If I separate from employment, my FEGLI coverage will continue at no cost for up to 12 months or until 90 days after my military service ends, whichever

date comes first, and then my coverage terminates with an automatic 31-day free extension of coverage and the right to convert to a private policy.

____ If I have a qualifying life event (QLE) while on absent - uniformed service, such as marriage, divorce, death of spouse, acquiring an eligible child, I must contact my employing agency no later than 60 days after the event if I wish to elect or increase Options B and/or Option C coverage as appropriate for the QLE. Option B is effective the first day the technician returns to pay and duty status. Option C is effective the date of the event, if reported during the required time frame and before the coverage terminates after 12 months.

NOTE: New FEGLI Election Opportunity is only for civilians employees deployed in support of a contingency operation and employees designated as "emergency essential employees."

Flexible Spending Account (FSA): (if enrolled)

____ I am aware that I must notify FSAFEDS of my entrance on absent - uniformed service as well as upon my return to duty by calling 1-877- 372-3337.

____ I understand that I may contact FSAFEDS to accelerate my pre-tax deductions prior to entering non-pay status. No contributions will be deposited into my account during my absence.

____ I understand that if I decide to separate from civilian service, my FSA will terminate as of the date of my separation. There are no extensions. Any health care expenses incurred prior to the date of separation will still be reimbursable but those incurred after the date of separation are not reimbursable.

The section below is only for members of the Army National Guard.

____ I am a reservist and I understand that under the Heroes Earnings Assistance and Relief Tax (HEART) Act reservists may receive a taxable distribution of their unused health-care flexible spending account balance known as a Qualified Reservist Distribution (QRD).

____ I understand that return of the funds (QRD) is taxable income in the year that funds are received and that there is a time limit to request a QRD beginning with the date of the orders and ending on the last day of the FSAFEDS grace period. I understand I must request a QRD by contacting FSAFEDS directly at 1-877-372-3337.

Federal Employees Dental and Vision Insurance Program (FEDVIP):

____ I understand that in order to continue my FEDVIP enrollment, I must keep my premium payments current to avoid cancellation of my coverage; I may not incur a debt. I understand that it is my responsibility to contact a BENEFEDS representative at 1-877-888-3337 to arrange accelerated deductions and to discuss and/or change my payment option. I also understand that if I change my payment option from payroll deduction, I must contact BENEFEDS on return to civilian duty if I want payment by payroll deduction reinstated.

Federal Long Term Care (LTC) Insurance:

____ I understand that in order to continue my LTC insurance, I must keep my premium payments current to avoid cancellation of my coverage; I may not incur a debt. I understand that it is my responsibility to contact a LTC Representative at 1-800-582-3337 to discuss and/or change my payment option. I also understand that if I change my payment option from payroll deduction, I must contact a LTC Representative on return to civilian duty if I want payment by payroll deduction reinstated.

Retirement:

____ I understand that if I am placed on absent - uniformed service, death and disability benefits continue under my retirement system.

____ CSRS employees first hired on or after 10-01-82: I understand that a military deposit is required to receive credit for this period of military service toward civilian retirement and the deposit must be paid in full prior to retirement.

____ CSRS employees first hired before 10-1-82: I understand that if I will be eligible for a Social Security benefit at age 62, a military deposit is required to ensure continued credit in the computation of my retirement annuity. This deposit must be paid to the agency prior to retirement. If I will not be eligible for a Social Security benefit at age 62, there is no need to pay a deposit.

____ If I am restored under USERRA (return from military service within five years; exception during a period of National emergency), the deposit will be calculated using the lesser of the CSRS or FERS retirement contributions attributed to the period of military service, or the military deposit amount based on my military base pay.

____ If I am not restored under USERRA, the military deposit calculation would be based on my military base pay if my military service was performed under

10 U.S.C. If my military service was performed under 32 U.S.C., I will receive credit for six months for each calendar year while on absent - uniformed service. (Military service performed under 32 U.S.C. is not creditable unless the employee returns to civilian duty via exercise of restoration rights under USERRA, and pays the military deposit.)

Thrift Savings Plan:

____ I understand that if I am restored to my civilian position under USERRA, I may make retroactive TSP contributions and elections, including missed catch- up contributions, if otherwise eligible. I understand that I will need to contact my employing office within 60 days of return to civilian duty to elect to make retroactive TSP contributions and elections.

____ I understand that my retroactive contributions and elections will be reduced if I contributed to TSP as a uniformed service member while on active duty. I understand that if I contribute to my uniformed services TSP account while on active duty, I am responsible for providing ALL my military LES forms as documentation of those contributions.

____ I currently have an outstanding TSP loan. I request that my employing office notify TSP of my non-pay status under USERRA so that my loan payments will be suspended. I understand that I cannot make a loan payment to my civilian account as a deduction from my military pay, and that interest will accrue while my loan payments are suspended. I also understand that I must notify my employing office immediately upon return to civilian duty so they may notify TSP of same, in order to avoid a taxable distribution. My TSP loan number(s) is_.

Acknowledgement: My elections for this period of military active duty are marked above and I understand my elections. I understand that I must notify my supervisor and employing office when my tour is completed.

Print and Sign Name _____ Date _____

ENCLOSURE K

BACK-FILLING POSITIONS

1. Back-filling Positions Vacated by Technicians on Military Duty. This guide places no restrictions on hiring technicians to replace those performing uniformed service.

a. Technicians hired to replace technicians who perform uniformed service will be informed they may be required to vacate their position if the primary occupant exercises reemployment rights.

b. It may be necessary to remove the current occupant through reassignment, termination, or through reduction-in-force procedures in order to reemploy the technician with restoration rights to the position under USERRA. An indefinite technician being separated will receive a minimum 30-day notice as required under [32 USC 709](#) once the primary occupant has requested restoration.

ENCLOSURE L

RESERVIST DIFFERENTIAL

1. Reservist Differential. Under [5 USC 5538](#), the Department of Defense must pay a reservist differential payment to eligible technicians who are members of the Reserve or National Guard called or ordered to active duty under specified provisions of law as defined in [10 USC 101\(a\)\(13\)\(b\)](#).

a. The purpose of reservist differential is to ensure no loss of pay while serving in uniformed service. Reservist differential is when a qualifying technician's civilian basic pay exceeds the amount of their military pay and allowance during a pay period.

ENCLOSURE M

DESIGNATED CONTINGENCY OPERATIONS

The current contingencies and operations provided below. Due to mission changes, this list may not be comprehensive over time.

Contingency	Authority	Effective date	Status
Bosnia	<u>Executive Order 12982</u>	December 8, 1995	Ongoing
Operation Joint Endeavor			
Operation Joint Guard			
Operation Joint Forge			
Iraqi Crisis	<u>Executive Order 13076</u>	February 24, 1998	Ongoing
Operation Southern Watch			
Operation Northern Watch			
Operation Desert Spring			
Operation Desert Thunder			
Operation Desert Fox			
Operation Desert Falcon			
Operation Desert Focus			
Kosovo	<u>Executive Order 13120</u>	April 27, 1999	Ongoing
Operation Allied Force			
Operation Joint Guardian			
911 Terrorist Attacks	<u>Executive Order 13223</u>	September 14, 2001	Ongoing
Operation Enduring Freedom			
Operation Infinite Justice			
Operation Iraqi Freedom			
Operation Noble Eagle			

ENCLOSURE N

REFERENCES

- a. Title 38 United States Code, Chapter 43
- b. Title 5 Code of Federal Regulations, Section 353
- c. Title 20 Code of Federal Regulations, Section 1002
- d. Title 5 United States Code, Chapter 6304
- e. 5 USC 6323
- f. 5 USC 5550b
- g. 5 USC 6307
- h. Public Law 108-454
- i. 38 USC 4312
- j. Technician Personnel Regulation 715
- k. Title 10 United States Code, Chapter 1161
- l. 5 USC 5538
- m. Title 32 United States Code, Chapter 709
- n. 10 USC 101

GLOSSARY

PART I – ABBREVIATIONS AND ACRONYMS

CFR	Code of Federal Regulations
HRO	Human Resources Office(r)
NG-J1-TN	National Guard, Office of Technician Personnel
OPM	Office of Personnel Management
PL	Public Law
TAG	The Adjutant General
TPR	Technician Personnel Regulation
USC	United States Code
USERRA	Uniformed Services Employment and Reemployment Rights Act, 1994

GLOSSARY

PART II -- DEFINITIONS

Critical Mission -- An operational mission that requires the skills or resources available in a Reserve component or components

Dual Status -- A federal civil service employee who has an excepted appointment as a full-time employee of the Air or Army National Guard.

Employer -- The Adjutant General of the State in which the technician is employed.

Escalator Position -- This is established by the principle that the returning Service member is entitled to the position of civilian employment he or she would have attained had he or she remained continuously employed by that civilian employer.

Primary Occupant -- The first individual who left the position in question for service in the uniformed service.

Service in the Uniformed Service -- USERRA defines the term “service in the uniformed service” to mean the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority. It includes duty training, full-time National Guard duty, and a period of absence for the purpose of an examination to determine an individual’s fitness for duty.

State -- Each of the contiguous states, Hawaii, Alaska, The District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

Supervisor -- An individual who directly supervises technicians.

Technician -- Excepted and competitive service technicians defined in [32 USC 709](#).

Uniformed Service -- Defined to mean the Armed Forces, the Army National Guard, and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty. It also includes commissioned corps of the Public Health Service and any other category of persons designated by the President in time of war or emergency.