

# YOUR RIGHTS UNDER OKLAHOMA'S USERRA THE OKLAHOMA UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

Oklahoma's USERRA, 44 O.S. § 4300 *et seq.*, protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service in the Oklahoma state military forces. USERRA also prohibits employers from discriminating against past and present members of the Oklahoma state military forces, and applicants to the Oklahoma state military forces.

Oklahoma state military forces include the National Guard of the State of Oklahoma, which includes an army component and an air force component; the Oklahoma State Guard; and any other military force organized under the Constitution and laws of the State of Oklahoma when not in a status placing them under exclusive federal jurisdiction. Unless otherwise established by Oklahoma law, the unorganized militia or any other state military force that does not meet this definition shall not be considered part of the "state military forces."

## REEMPLOYMENT RIGHTS

You have the right to be reemployed in your civilian job if you leave that job to perform service in the Oklahoma state military forces and:

- you ensure that your employer receives advance written or verbal notice of your service;
- you have five years or less of cumulative service in the uniformed services while with that particular employer;
- you return to work or apply for reemployment in a timely manner after conclusion of service; and
- you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

## RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- are a past or present member of the Oklahoma state military forces;
- have applied for membership in the Oklahoma state military forces; or
- are obligated to serve in the Oklahoma state military forces;

Then an employer, including a state agency, may not deny you:

- initial employment;
- reemployment;
- retention in employment;
- promotion; or
- any benefit of employment

because of this status. In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

## HEALTH INSURANCE PROTECTION

- If you leave your job to perform military service in the Oklahoma state military forces, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the service of the Oklahoma state military forces.
- Even if you don't elect to continue coverage during your service in the Oklahoma state military forces, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

## ENFORCEMENT

- The Oklahoma Commissioner of Labor is authorized to investigate and resolve complaints of Oklahoma USERRA violations.
- For assistance in filing a complaint, or for any other information on USERRA, contact the Oklahoma Department of Labor's Wage & Hour Division at 1-405-521-6100 or visit its website at <http://www.ok.gov/Labor>.
- If you file a complaint with the Oklahoma Department of Labor ("ODOL") against a state government employer and ODOL is unable to resolve it, you may request that your case be referred to the District Attorney with relevant jurisdiction for representation.
- You may also bypass the ODOL complaint process and bring a civil action against an employer for violations of Oklahoma's USERRA.

The rights listed here may vary depending on the circumstances. 44 O.S. § 4334 requires employers to notify employees of their rights under Oklahoma's USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily place notices for employees.

