



The Job Picture When Johnny and Janey Come Marching Home

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Many Americans wonder when the troops will return home. Another question to ask is this: how will we take care of the troops when they return home? Against this background, Congress has a real interest in regulating the civilian employment relationships of uniformed service members.

The real question is this: do the troops deserve fair treatment, or preferential treatment? Regardless if you are for or against the war, or whether you live in a red state or a blue state, most Americans say they support the men and women fighting abroad. They also realize this conflict doesn't appear to be ending any time soon.

As new service orders are issued and existing commitments are extended, employers face increasing numbers of employees seeking leave to fulfill military obligations. These obligations, ranging in duration from days to weeks to years, often leave employers in the unenviable position of having to arrange adequate coverage for absent employees while holding their positions open upon timely application for reemployment (as required by federal law).

In addition to the Uniformed Services Employment and Reemployment Rights Act (USERRA), a few years back Congress passed the Veterans Benefits Improvement Act (VBIA), a bill imposing, among other things, specific notice requirements for uniformed service members, along with extended health care continuation coverage.

Employers, you should be on the lookout for a new mandated notice that will likely become part of the government's composite posters over time. You should also recognize that the traditional 18-month COBRA period will no longer suffice for departing service members, who would have the right to benefits continuation for up to 24 months from departure for service. Once USERRA regulations are finalized (which will likely occur next spring), employee rights will be further clarified.

Keep in mind that this is the only area of the law that incorporates a built-in presumption in favor of the complainant. Nonetheless, we can expect the courts to impose some limits on the extent of those rights, as demonstrated by the 5th Circuit. This is obviously an evolving area of the law. Stay abreast of the latest legal developments to ensure that your policies and procedures remain compliant and fair for all employees.

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