

LAW REVIEW¹ 26062

September 2026

Please Fund and Staff DOL-VETS Adequately.

By Captain Samuel F. Wright, JAGC, USN (Ret.)²

1.4—USERRA enforcement.

The Role of DOL-VETS in enforcing USERRA.

In the United States Department of Labor, there is an agency called the “Veterans’ Employment and Training Service” (DOL-VETS). A person who claims that his or her USERRA rights have been violated by any

¹ I invite the reader’s attention to [Law Center | ROA](#). You will find more than 2,300 “Law Review” articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouses’ Protection Act (USFSPA), the title 38 chapters that provide for veterans’ benefits administered by the Department of Veterans Affairs (VA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. I am the author of more than 90% of the articles, but we are always looking for “other than Sam” articles by other lawyers.

² BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General’s Corps officer and retired in 2007. I am a life member of ROA. I have dealt with USERRA and the Veterans’ Reemployment Rights Act (VRRRA—the 1940 version of the federal reemployment statute) for 44 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. §§ 4301-35). I have also dealt with the VRRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. As of 5/1/2026, I have come out of retirement and have affiliated with Maher Legal Services in an “of counsel” role. You can reach me by e-mail at samuel@maherlegalservices.com or by telephone at (708) 468-8155.

employer (federal, state, local, or private sector) is authorized to file a formal, written USERRA complaint with DOL-VETS.³

Within five days after receiving a complaint, DOL-VETS is required to acknowledge receipt of the complaint and to notify the complainant in writing of his or her rights concerning the complaint.⁴ DOL-VETS is required to investigate such complaint.⁵ In conducting a USERRA investigation, DOL-VETS has the authority to obtain records, testimony, and other evidence by subpoena.⁶ DOL-VETS is expected to complete its investigation within 90 days after receiving the complaint.⁷ When DOL-VETS completes its investigation, it is required to notify the complainant of the results of the investigation and of the complainant's right to request referral of the case file to the United States Department of Justice (DOJ) or the United States Office of Special Counsel (OSC).⁸

Complaints against State or local governments or private employers.

If the complainant requests referral to DOJ, DOL-VETS must refer the matter to DOJ within 60 days after receiving the request.⁹ If DOJ is reasonably satisfied that the complainant is entitled to the rights or benefits sought, DOJ may appear and act as attorney for the complainant in filing and prosecuting the case in the appropriate

³ 38 U.S.C. § 4322(a).

⁴ 38 U.S.C. § 4322(c)(1).

⁵ 38 U.S.C. § 4322(d).

⁶ 38 U.S.C. § 4326.

⁷ 38 U.S.C. § 4322(f).

⁸ 38 U.S.C. § 4322(e). The case file will be referred to DOJ if the employer is a State or local government or a private employer. The case file will be referred to OSC if the employer is a Federal executive agency.

⁹ 38 U.S.C. § 4323(a)(1).

federal district court.¹⁰ Within 60 days receiving the referral from DOL-VETS, DOJ is required to decide whether to represent the complainant and to notify the complainant in writing of the decision.¹¹

Thus, if the complainant wants free legal representation from DOJ, the complainant must go through this process, starting with DOL-VETS. If DOJ declines the complainant's request for representation, the complainant can file suit in the appropriate federal district court with private counsel that the complainant retains.¹² Alternatively, the complainant can decide not to request that DOL-VETS refer the matter to DOJ, and the complainant can then file suit with private counsel.¹³ The complainant can also bypass DOL-VETS altogether and file suit in the appropriate federal district court without seeking DOL-VETS assistance.¹⁴ If the complainant proceeds with private counsel and prevails, the federal district court is required to award the plaintiff reasonable attorney fees, expert witness fees, and court costs.¹⁵

Complaints against Federal executive agencies.

If the employer is a Federal executive agency, the complainant can request referral to OSC.¹⁶ DOL-VETS must refer the case file to OSC within 60 days after receiving the complainant's request.¹⁷ If OSC is

¹⁰ Id.

¹¹ 38 U.S.C. § 4323(a)(2). In practice, this deadline is seldom met. DOJ routinely requests "waivers" from complainants to extend the time for consideration. DOL-VETS also sometimes requests "waivers" when it is unable to complete its investigation within 90 days after receiving the complaint.

¹² 38 U.S.C. § 4323(a)(3)(C).

¹³ 38 U.S.C. § 4323(a)(3)(B).

¹⁴ 38 U.S.C. § 4323(a)(3)(A).

¹⁵ 38 U.S.C. § 4323(h)(2).

¹⁶ 38 U.S.C. § 4324(a)(1).

¹⁷ Id.

reasonably satisfied that the complainant is entitled to the benefits sought, OSC will act as the complainant's attorney in filing and prosecuting the case in the Merit Systems Protection Board (MSPB).¹⁸

Within 60 days after receiving the referral from DOL-VETS, OSC is required to decide whether it will represent the complainant and notify the complainant in writing of the decision.¹⁹ If OSC declines the complainant's request for representation, the complainant can initiate the enforcement action in the MSPB with private counsel that the complainant retains.²⁰ The complainant can also decide not to request referral to OSC and can then initiate the action in the MSPB with private counsel.²¹ The complainant can also bypass DOL-VETS altogether and initiate the action in the MSPB with private counsel.²²

I invite the reader's attention to our Law Review 24052 (November 2024) for a detailed discussion of the USERRA enforcement mechanism with respect to cases against Federal executive agencies as employers.

The personnel complement of DOL-VETS has been grievously cut.

I worked for DOL as an attorney for exactly ten years, from September 1982 to September 1992. I worked closely with DOL-VETS during that time, and for two of those years, from January 1985 to January 1987, I was detailed to DOL-VETS, serving as the special assistant to Assistant

¹⁸ 38 U.S.C. § 4324(a)(2)(A).

¹⁹ 38 U.S.C. § 4324(a)(2)(B).

²⁰ 38 U.S.C. § 4324(b)(4).

²¹ 38 U.S.C. § 4324(b)(3).

²² 38 U.S.C. § 4324(b)(1).

Secretary Donald E. Shasteen. I recall that during that entire time there were exactly 300 employees assigned to DOL-VETS.

Just recently, I carefully reviewed the National Office Directory and the Regional and State Office Directory on the DOL-VETS website, and I found only 138 people listed. The directories showed 78 vacancies, and they also showed many instances where the same individual was listed in different positions in the national office and multiple regions.

I am all for versatility and efficiency, but it is not reasonable to expect 138 people to do the work that traditionally was done by 300. It is essential that Congress and DOL add to the funding and personnel strength of DOL-VETS so that service members and veterans can obtain the assistance that they need and deserve.

Q: Where can I find a lawyer or law firm that fully understands laws like the Servicemembers Civil Relief Act (SCRA), the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Uniform Code of Military Justice (UCMJ), and other laws that are especially pertinent to those who are serving or have served our country in uniform?

A: As of 5/1/2026, I have come out of retirement and have joined Maher Legal Services in an “of counsel” role. This firm has a great team, headed by attorneys John Maher and Kevin Mikolashek, both of whom have served as Army judge advocates for many years. These attorneys and this firm have a great record, and I am proud to join their team.

Here is a link to the Maher Legal Services website:

<https://www.lawyersdefendingwarriors.com/about>.

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