



COMPLAINT OF POSSIBLE VIOLATION OF THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA)

INFORMATION ABOUT FILING A USERRA COMPLAINT WITH OSC

This complaint form may be used to file complaints alleging violations of The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. § 4301 et seq., by federal employees or applicants for federal employment. While it is not required that this complaint form be used, use of this form will be helpful to OSC in expediting the processing and investigating of complaints. Please complete the information requested below as fully and accurately as possible.

SEND COMPLETED COMPLAINT FORMS TO:

By Mail:

**USERRA Unit
Office of Special Counsel
1730 M Street, N.W. (Suite 218)
Washington, DC 20036-4505**

By Fax:

(202) 653-5151

Electronically:

WWW.OSC.GOV (AT "FILE COMPLAINTS ONLINE")

PLEASE KEEP A COPY OF YOUR COMPLAINT, ANY SUPPORTING DOCUMENTATION, AND ANY ADDITIONAL ALLEGATIONS SENT IN WRITING TO OSC NOW, OR AT ANY TIME WHILE YOUR COMPLAINT IS PENDING. REPRODUCTION CHARGES UNDER THE FREEDOM OF INFORMATION ACT MAY APPLY TO ANY REQUEST YOU

INFORMATION ABOUT USERRA

USERRA prohibits discrimination against persons because of their service in the Armed Forces, Armed Forces Reserve, the National Guard, and other uniformed services. USERRA prohibits an employer from denying any benefit of employment on the basis of an individual's membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services. USERRA also protects the employment and reemployment rights of service members who are absent from their civilian employment due to military service or training.

Pursuant to a demonstration project established by the Veterans Benefits Improvement Act of 2004 (P.L. 108-454), OSC, rather than the Department of Labor's Veterans Employment and Training Service, has authority to investigate federal sector USERRA claims brought by persons whose social security number ends in an odd-numbered digit (1,3,5,7, or 9). Furthermore, regardless of a person's social security number, OSC has the authority to investigate all federal sector USERRA claims containing a related prohibited personnel practice allegation over which OSC has jurisdiction. (Please visit www.osc.gov and click on the "Prohibited Personnel Practices" link to learn more about personnel practices that are prohibited in the federal workplace.)

OSC is administering the demonstration project, which began on February 8, 2005, and ends on September 30, 2007.

If you have any questions about filling out this form or filing a USERRA complaint with OSC, please contact OSC's USERRA Unit by telephone at (202) 254-3620 or via e-mail at USERRA@osc.gov.

**VISIT WWW.OSC.GOV
FOR MORE INFORMATION ABOUT USERRA**

COMPLAINT OF POSSIBLE VIOLATION OF USERRA

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(Please print legibly or type and complete all pertinent items. Enter "N/A" (Not Applicable) or "Unknown" where appropriate. (If more space is needed, use Continuation Sheet.)

PART 1: COMPLAINANT INFORMATION

1. Name of person whose USERRA rights were allegedly violated: Mr. () Ms. () Mrs. () Miss ()

2. Home Mailing Address: _____

3. Last digit in your social security number: _____

4. Contact information:

Telephone number(s): () _____ (Home)
() _____ (Office) Ext. _____
Fax number: () _____
E-mail address: _____

5. Uniformed Services Information:

A. Branch of service (check all that apply):

- ___ Army
- ___ Navy
- ___ Air Force
- ___ Marine Corps
- ___ Coast Guard
- ___ Public Health Services
- ___ Reserves
- ___ National Guard

National Guard or Reserve Unit: _____

Address: _____

Telephone: () _____

B. Nature of service

- ___ Active Duty
- ___ Initial Active Duty for Training
- ___ Active/Inactive Duty fro Training
- ___ Examinee/Rejectee
- ___ Other: _____
- ___ Not Applicable

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C. Service Dates:

1. (a) Service from _____ to _____.
or
(b) Date of examination for service or rejection for service: _____

D. Type of Discharge:

- | | |
|---|---|
| <input type="checkbox"/> Honorable | <input type="checkbox"/> Other than honorable |
| <input type="checkbox"/> Honorable conditions | <input type="checkbox"/> Dishonorable |
| <input type="checkbox"/> Entry level | <input type="checkbox"/> Bad Conduct |
| <input type="checkbox"/> Uncharacterized | |
| <input type="checkbox"/> Medical | |
| <input type="checkbox"/> Other: _____ | |
|
<input type="checkbox"/> Not applicable | |

6. Agency/Employer Name: _____
Address: _____
Telephone: _____

7. What other action(s), if any, have you taken to appeal, grieve, or report this matter under any other procedure? (*Check all that apply.*)

- | | |
|--|-------------|
| <input type="checkbox"/> None, or not applicable | Date: _____ |
| <input type="checkbox"/> Appeal filed with Merit Systems Protection Board (MSPB) | Date: _____ |
| <input type="checkbox"/> Petition for reconsideration of initial decision filed with MSPB
Initial Decision No. _____ | Date: _____ |
| <input type="checkbox"/> USERRA claim filed with VETS (Department of Labor)
(Form VETS/USERRA/VP-1010) | Date: _____ |
| <input type="checkbox"/> Grievance filed under agency grievance procedure | Date: _____ |
| <input type="checkbox"/> Grievance filed under negotiated grievance procedure | Date: _____ |
| <input type="checkbox"/> Matter heard by arbitrator under grievance procedure | Date: _____ |
| <input type="checkbox"/> Matter is pending in arbitration | Date: _____ |
| <input type="checkbox"/> Discrimination complaint filed with agency | Date: _____ |
| <input type="checkbox"/> Agency or Administrative Judge (AJ) decision on discrimination
complaint appealed to Equal Employment Opportunity Commission | Date: _____ |
| <input type="checkbox"/> Appeal filed with the Office of Personnel Management | Date: _____ |
| <input type="checkbox"/> Unfair Labor Practice (ULP) complaint filed with the
Federal Labor Relations Authority General Counsel | Date: _____ |
| <input type="checkbox"/> Lawsuit filed in Federal Court
Court name: _____ | Date: _____ |
| <input type="checkbox"/> Reported matter to agency Inspector General | Date: _____ |
| <input type="checkbox"/> Reported matter to Member of Congress
Name of Senator or Representative: _____ | Date: _____ |
| <input type="checkbox"/> Other (<i>specify</i>): _____ | Date: _____ |

PART 3: CONSENT TO CERTAIN DISCLOSURES OF INFORMATION

OSC asks everyone who files a complaint alleging a violation of USERRA to select one of three Consent Statements shown below. ***IF YOU DO NOT SELECT ONE OF THE THREE CONSENT STATEMENTS BELOW, OSC WILL ASSUME THAT YOU HAVE SELECTED CONSENT STATEMENT 1.*** Please: (a) select and sign (or check, if filing electronically) one of the Consent Statements below; and (b) keep a copy of the Consent Statement you select (as well as a copy of all documents that you send to OSC) for your own records.

If you initially select a Consent Statement that restricts OSC's use of information, you may later select a less restrictive Consent Statement. If your selection of Consent Statement 2 or 3 prevents OSC from being able to conduct an investigation, an OSC representative will contact you, explain the circumstances, and provide you with an opportunity to select a less restrictive Consent Statement.

You should be aware that the Privacy Act allows information in OSC case files to be used or disclosed for certain purposes, regardless of which Consent Statement you sign. See 5 U.S.C. § 552a(b). Information about certain circumstances under which OSC can use or disclose information under the Privacy Act appears on the next page.

(Please sign one)

Consent Statement 1

I *consent* to OSC's communication with the pertinent individuals involved in my complaint. I *agree* to allow OSC to disclose my identity as the complainant, and information from or about me, if OSC decides that such disclosure is needed to investigate the allegation(s) in my complaint. I understand that regardless of the Consent Statement I choose, OSC may disclose information from my complaint file when permitted by the Privacy Act (including circumstances summarized in Part 5, below).

Complainant's Signature for Consent Statement 1

Date Signed

Consent Statement 2

I *consent* to OSC's communication with the pertinent individuals involved in my complaint, but I *do not agree* to allow OSC to disclose my identity as the complainant. I agree to allow OSC to disclose only information from or about me, without disclosing my name or other identifying information, if OSC decides that such disclosure is needed to investigate the allegation(s) in my complaint. I understand that in some circumstances OSC could not maintain my anonymity while communicating with the pertinent individuals. In such cases, I understand that this request for confidentiality might prevent OSC from taking further action on my complaint. I also understand that regardless of the Consent Statement I choose, OSC may disclose information from my complaint file when permitted by the Privacy Act (including circumstances summarized in Part 5, below).

Complainant's Signature for Consent Statement 2

Date Signed

Consent Statement 3

I *do not consent* to OSC's communication with the pertinent individuals involved in my complaint. I understand that if OSC decides that it cannot investigate the allegation(s) in my complaint without communicating with these individuals, my lack of consent will probably prevent OSC from taking further action on the complaint. I understand that regardless of the Consent Statement I choose, OSC may disclose information from my complaint file when permitted by the Privacy Act (including circumstances summarized in Part 5, below).

Complainant's Signature for Consent Statement 3

Date Signed

PART 4: CERTIFICATION AND SIGNATURE

I certify that all of the statements made in this complaint (including any continuation pages) are true, complete, and correct to the best of my knowledge and belief. I understand that a false statement or concealment of a material fact is a criminal offense punishable by a fine of up to \$250,000, imprisonment for up to five years, or both. 18 U.S.C. § 1001.

Signature

Date Signed

PART 5: PRIVACY ACT / PAPERWORK REDUCTION ACT STATEMENTS

Routine Uses. Limited disclosure of information from OSC files is needed to fulfill OSC's investigative, prosecutorial, and related responsibilities. OSC has described 18 routine uses for information in its files in the *Federal Register* (F.R.), at 66 F.R. 36611 (July 12, 2001), and 66 F.R. 51095 (October 5, 2001). A copy of the routine uses is available from OSC upon request. A summary of the routine uses appears below.

OSC may disclose information from its files in the following circumstances:

1. to disclose that an allegation of a prohibited personnel practices or other prohibited activity has been filed;
2. to disclose information to the Office of Personnel Management (OPM) as needed for inquiries involving civil service laws, rules or regulations, or to obtain an advisory opinion;
3. to disclose information about allegations or complaints of discrimination to entities concerned with enforcement of antidiscrimination laws;
4. to the MSPB or the President, when seeking disciplinary action;
5. to the involved agency, MSPB, OPM, or the President when OSC has reason to believe that a prohibited personnel practice has occurred, exists, or is to be taken;
6. to disclose information to Congress in OSC's annual report;
7. to disclose information to third parties as needed to conduct an investigation; obtain an agency investigation and report on information disclosed to OSC's whistleblower disclosure channel; or to give notice of the status or outcome of an investigation;
8. to disclose information as needed to obtain information about hiring or retention of an employee; issuance of a security clearance; conduct of a security or suitability investigation; award of a contract; or issuance of a license, grant, or other benefit;

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9. to the Office of Management and Budget (OMB) for certain legislative coordination and clearance purposes;
10. to provide information from an individual's record to a congressional office acting pursuant to the individual's request;
11. to furnish information to the National Archives and Records Administration for records management purposes;
12. to produce summary statistics and work force or other studies;
13. to provide information to the Department of Justice as needed for certain litigation purposes;
14. to provide information to courts or adjudicative bodies as needed for certain litigation purposes;
15. to disclose information to the MSPB as needed in special studies authorized by law;
16. for coordination with an agency's Office of Inspector General or comparable entity, to facilitate the coordination and conduct of investigations and review of allegations;
17. to news media or the public in certain circumstances (except when the Special Counsel determines that disclosure in a particular case would be an unwarranted invasion of personal privacy); and
18. to the Department of Labor and others as needed to implement the Uniformed Services Employment and Reemployment Rights Act of 1994, and the Veterans' Employment Opportunities Act of 1998.

If OSC officials believe that disclosure may be appropriate in a situation not covered by one of OSC's routine uses, or one of the 11 other exceptions to the Privacy Act's general prohibition on disclosure, OSC will seek written authorization from the complainant permitting the disclosure.

Purposes, Burdens, and Other Information. An agency may not conduct or sponsor a collection of information, and persons may not be required to respond to a collection of information, unless it: (a) has been approved by OMB; and (b) displays a currently valid OMB control number. The information in this form is collected pursuant to OSC's legal responsibility to investigate certain federal sector USERRA allegations pursuant to section 204 of the Veterans' Benefits Improvement Act of 2004 (P.L.108-454) and 38 U.S.C. § 4301 et seq. The information will be reviewed by OSC to determine whether the facts establish its jurisdiction over the subject of the complaint, and whether further investigation is warranted. The reporting burden for this collection of information is estimated to be an average of 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the form. Please send any comments about this burden estimate, and suggestions for reducing the burden, to the Office of Special Counsel, Legal Counsel and Policy Division, 1730 M Street, N.W. (Suite 218), Washington, DC 20036-4505.