

## Enclosure 3

# MILITARY SERVICE EXEMPTED FROM USERRA FIVE YEAR LIMITATION

- Service that is required beyond five years to complete an initial period of obligated service. Some military specialties require an individual to serve more than five years because of the amount of time or expense involved in training. If the employee works in one of those specialties, he or she has reemployment rights when the initial period of obligated service is completed;
- If the employee was unable to obtain orders releasing him or her from service in the uniformed services before the expiration of the five-year period, and the inability was not the employee's fault;
- Service performed to fulfill periodic National Guard and Reserve training requirements as prescribed by 10 U.S.C. 10147 and 32 U.S.C. 502(a) and 503; and,
- Service performed to fulfill additional training requirements determined and certified by a proper military authority as necessary for the employee's professional development, or to complete skill training or retraining;
- Service performed in a uniformed service if he or she was ordered to or retained on active duty under:
  - 10 U.S.C. 688** (involuntary active duty by a military retiree);
  - 10 U.S.C. 12301(a)** (involuntary active duty in wartime);
  - 10 U.S.C. 12301(g)** (retention on active duty while in captive status);
  - 10 U.S.C. 12302** (involuntary active duty during a national emergency for up to 24 months);
  - 10 U.S.C. 12304** (involuntary active duty for an operational mission for up to 270 days);
  - 10 U.S.C. 12305** (involuntary retention on active duty of a critical person during time of crisis or other specific conditions);
  - 14 U.S.C. 331** (involuntary active duty by retired Coast Guard officer);
  - 14 U.S.C. 332** (voluntary active duty by retired Coast Guard officer);
  - 14 U.S.C. 359** (involuntary active duty by retired Coast Guard enlisted member);
  - 14 U.S.C. 360** (voluntary active duty by retired Coast Guard enlisted member);
  - 14 U.S.C. 367** (involuntary retention of Coast Guard enlisted member on active duty);
  - 14 U.S.C. 712** (involuntary active duty by Coast Guard Reserve member for natural or man-made disasters).

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- Service performed in a uniformed service if the employee was ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;
- Service performed in a uniformed service if the employee was ordered to active duty (other than for training) in support of an operational mission for which personnel have been ordered to active duty under 10 U.S.C. 12304, as determined by a proper military authority;
- Service performed in a uniformed service if the employee was ordered to active duty in support of a critical mission or requirement of the uniformed services as determined by the Secretary concerned; and,
- Service performed as a member of the National Guard if the employee was called to respond to an invasion, danger of invasion, rebellion, danger of rebellion, insurrection, or the inability of the President with regular forces to execute the laws of the United States.
- Service performed to mitigate economic harm where the employee's employer is in violation of its employment or reemployment obligations to him or her.