



NATIONAL GUARD BUREAU
1000 AIR FORCE PENTAGON, ROOM 4E126
WASHINGTON, DC 20330-1000

MEMORANDUM FOR Air National Guard Statutory (Stat) Tour Members

22 OCT 2014

FROM: NGB/CF

SUBJECT: Civilian Reemployment Protections for Air Force Military Personnel

References: (a) DoDI 1205.12, "*Civilian Employment and Reemployment Rights of Applicants for, and Service Members and Former Service Member of the Uniformed Services,*" 04/04/1996

(b) SAF/MR Memorandum Subject, "*Critical Mission/Critical Requirement Periods of Active Duty,*" 06/07/2001

(c) SAF/MR Memorandum, Subject, "*Reemployment Protections for Activated Reserve Component Members,*" 12/07/2001

(d) SAF/MR Memorandum, Subject, "*Reemployment Protections for Activated Air Reserve Component (ARC) Members,*" 09/19/2005

(e) SAF/MR Memorandum, Subject, "*Reemployment Protections for Activated Air Reserve Component (ARC) Members,*" 03/31/2008

(f) SAF/MR Memorandum, Subject, "*Civilian Reemployment Protections for Air Force Military Personnel,*" 10/25/2011

By memo dated 25 October 2011, SAF/MR exempted Air Reserve Component (ARC) members who volunteered for active duty under section 12301(d) of Title 10, United States Code, in direct or indirect support of Operation NOBLE EAGLE, Operation ENDURING FREEDOM, Operation NORTHERN WATCH, Operation SOUTHERN WATCH or other missions and operations associated with the national emergency from the Uniformed Services Employment and Reemployment Rights Act (USERRA) five-year cumulative active duty limit for reemployment rights for such periods of service.

Based on SAF/MR's policy, former Air National Guard (ANG) leadership concluded all ANG Stat Tour personnel were either directly or indirectly supporting the above-referenced contingencies and accordingly directed NGB/HR to include the following statement, "The period of service under these orders is exempt from the five-year limit as provided in 38 U.S.C. 4312(c)(4)(b)," on all Stat Tour personnel's orders. For those members where circumstances prevented placing the authority on the activation order, a separate memorandum was accomplished and retained in the members' service file.

SAF/MR has updated the USERRA policy three times since 2001 to further clarify the types of exempt service. The current SAF/MR guidance states the service members are exempt only if “ordered to or retained on active duty (other than for training) under any provision of the law *because* of a war or national emergency....” (emphasis added). SAF/MR emphasized that in most cases, ARC members ordered to duty under 10 U.S.C. 12301(d) but serving under 10 U.S.C. 12301 (Active Guard Reserve duty), 10 U.S.C. 10211, or 10 U.S.C 12402 will not fit this exemption criteria.

After SAF/MR published their most recent USERRA clarifying guidance, they raised concerns to ANG leadership about the number of Stat Tour personnel with the USERRA 5-year exemption remaining on their Stat Tour orders. SAF/MR’s position is, based on their current USERRA exemption policy, while on Stat Tour orders members will no longer be exempt unless otherwise approved by SAF/MR as an exception to policy.

We understand an amendment to a members’ order removing the exemption may result in individuals having to immediately make decisions relative to their continued service within the Stat Tour program. However, we must comply with current SAF/MR guidance. Therefore, I am directing NGB/HR to amend Stat Tour orders and/or rescind any memorandums containing the exempt status to reflect “not exempt” effective 1 May 2015.

My point of contact for this matter is Mrs. Caren Foard, NGB/HR, DSN 612-8645, commercial 240-612-8645, or email Caren.Foard@ang.af.mil.



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