APWU

American Postal Workers Union, AFL-CIO

GUIDE TO VETERANS RIGHTS & BENEFITS

WE APPRECIATE YOUR SACRIFICE AND COMMITMENT

Dear Fellow Military Veteran and APWU Member,

The APWU membership includes thousands of military veterans, many of whom have service-connected disabilities and are now dedicated postal workers, along with numerous retiree veterans. You are part of a strong community that values service and dedication. We are honored to have you in our union and are committed to supporting you in every possible way.

The APWU is excited to provide with you this guide to help you navigate your rights and benefits as a veteran employed by the Postal Service. While this guide cannot address every possible issue, it's a starting point; you'll find information on Leave Accrual, Wounded Warriors Leave, Employment and Reemployment Rights, Merit Systems Protection Board (MSPB), and more.

We encourage you to explore the "Veterans Resources" section of our website (apwu.org/veterans-resources) for more resources and updates. And don't miss our APWU Veterans Network - it's a great way to connect with fellow veterans and stay informed on issues that matter to you.

We're proud to be part of a union that's committed to supporting our veteran members. The APWU has a long history of advocating for veterans' rights and benefits. Your service and sacrifice mean everything to us, and we're committed to fighting for your rights and well-being. Thank you for your dedication to our country and our union.

Sincerely and in Union Solidarity,

Jonathan Smith
APWU President

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The following sections pertain to Postal Support Employees: APWU Veterans Network; Legislative Agenda; Medical Appointments for Veterans with Disabilities; OWCP/VA Dual Coverage; Uniformed Services Employment and Reemployment Act of 1994 (USERRA); Veterans' Preference Act of 1944; Wounded Warriors Leave and Resources.

The American Postal Workers Union, AFL-CIO remains dedicated to keeping veterans, guard reservists, family members and union representatives informed about protections, rights, benefits, program services and changes that may affect them.

The APWU Veterans Network was launched in 2021 with a twofold purpose:

First, to provide opportunities to connect with other APWU veterans, provide support for each other and stay informed on important issues, and

Second, to help advance the general goals of the APWU and the labor movement.

APWU veterans share valuable experiences and are embedded in their local communities, in both veteran and non-veteran related causes and events. Their continued service fosters a genuine pride and with a focus on teamwork and purpose, the APWU Veterans Network embraces the shared values of our veteran members and the American Postal Workers Union.

Legislative Agenda

On Capitol Hill, lawmakers are constantly debating issues and considering proposals that affect veterans and members of the American Postal Workers Union. The APWU Legislative Department monitors legislative activity to anticipate potential effects on members and our families. In addition, the APWU promotes and mobilizes for pro-postal, pro-worker, pro-union legislation.

The importance of protecting veterans' preference critical contributions to the Postal Service. Often, groups that are opposed to our members' best interests propose legislation designed to undermine decades of progress the labor movement and the APWU have achieved.

The APWU has been successful in defending against attacks in Congress that threaten our members' collective-bargaining rights, retirement benefits, and livelihood. We want to continue helping to elect House and Senate candidates who will protect our rights and benefits, promote our issues, and deliver our message to Washington.

Veterans have significant influence in Washington on issues such as retirement, social security and health care benefits, hiring preference, legislation that supports the public Postal Service and postal/veteran jobs, veterans' programs, or proposals that affect the Department of Veterans Affairs. This gives veterans a strong voice when they contact their senators and congressional representatives to encourage them to act on proposed legislation.

The APWU Legislative Department is proactive in both monitoring and promoting legislation that affects our members and our veterans. Please visit the APWU Legislative and Political Department web-page for legislative resources.
https://apwu.org/legislative-and-political.

Veterans' Preference Act

Congress passed the Veterans' Preference Act of 1944 to ensure veterans military service would not hinder their employment opportunities upon their return to civilian life. The Act originally required the federal government to promote returning war veterans when hiring new employees. Over the years, its protections have expanded to include other veterans meeting eligibility requirements, irrespective of whether they served during a war.

To qualify for preference in hiring and for up to extra ten points on a passing score of the entrance examinations, veterans must be discharged under honorable conditions and meet the criteria for one of the preference categories. Veterans must have either sustained a service-connected disability, served during the specific periods listed in Handbook EL-312, *Employment and Placement*, or qualified under the "sole survivor discharge criteria in Section 483 of Handbook EL-312.

Employees with questions regarding veterans' preference, relative standing and seniority are encouraged to review Handbook EL-312 and the Collective Bargaining Agreement, both of which are available on the APWU website at https://apwu.org/. Veterans should contact USPS Human Resources Shared Services Center (HRSSC) at 877-477-3273 and select option 5 if they believe their veterans' preference eligibility category is incorrect or changes during their employment.

The Veterans' Preference Act of 1944 not only benefits veterans during the hiring process; it also guarantees additional rights to employed veterans regarding job security. These rights, which originally applied only to war veterans, provided specific notice and appeal rights in matters of employee discipline. These rights have been subsequently expanded to protect other employees with veterans' preference, provided they have served one year of current, continuous service. A break in service of one workday during the year disqualifies an employee from these rights. This means that Postal Support Employees would not be protected unless they worked at least 365 days without a break in service.

According to the Act, a federal employer could not initiate an adverse action against a war veteran without good cause and without first providing 30 days' written notice of the allegations and an opportunity to respond. The veteran then could appeal the adverse action to the Civil Service Commission, which was the predecessor to the present-day Merit Systems Protection Board (MSPB). Adverse actions are defined in Section 1201.3 of Title 5 of the Code of Federal Regulations (CFR):

1201.3 Appellate jurisdiction.
Adverse Actions. Removals (terminations of employment after completion of probationary or other initial service period), reductions in grade or pay, suspension for more than 14 days, or furloughs for 30 days or less for cause that will promote the efficiency of the service; an involuntary resignation or retirement is considered to be a removal.

Article 16, Section 9 of our Collective Bargaining Agreement outlines preference eligible veterans' rights with respect to the Act and states in relevant part:

Article 16, Section 9. Veterans' Preference

A. A preference eligible is not hereunder deprived of whatever rights of appeal such employee may have under the Veterans' Preference Act; however, if the employee appeals under the Veterans' Preference Act, the employee will be deemed to have waived further access to the grievance-arbitration procedure beyond Step 3 under any of the following circumstances:

1. if an MSPB settlement agreement is reached;
2. if the MSPB has not yet issued a decision on the merits, but a hearing on the merits before the MSPB has begun;
3. if the MSPB issues a decision on the merits of the appeal.

B. In the event the grievance of a preference eligible is due to be scheduled in accordance with Article 15, Section 5, and the preference eligible has a live MSPB appeal on the same action the parties will not schedule the grievance for arbitration until a final determination is reached in the MSPB procedure. If the grievance is not waived under Section 9.A.1, 2, or 3 above, the case will be scheduled promptly for arbitration. Should the grievance ultimately be sustained or modified in arbitration, the preference eligible employee will have no entitlement to back pay under the National Agreement for the period from the date the case would have been scheduled for arbitration and the date it is actually scheduled for arbitration.

Retirement Credit for Military Service – "Military Buy-Back"

As a general rule, military service in the Armed Forces of the United States is creditable for retirement purposes if it was active service terminated under honorable conditions, and if it was performed prior to your separation from civilian service for retirement.

Far too many of our veterans who have served in the military wait until immediately before retirement to buy back their service time, without realizing how long the process can take.

Obtaining all the necessary paperwork to buy back time may take several weeks; therefore, we recommend that you begin the process as soon as possible.

Why should you consider buying back your military time? Making military service payments could increase the amount of your annuity and could add credit to your eligibility for retirement. Making these payments helps ensure that you will not suffer a future reduction of your OPM annuity if you qualified for Social Security benefits. If your active military duty ended prior to Dec. 31, 1956, and you are in the Civil Service Retirement System (CSRS) program, you will receive full credit without needing to make a deposit for either your retirement eligibility or annuity calculations. These rules change, however, for CSRS and FERS employees who served in the military after Jan. 1, 1957. Information for these employees can be found in Chapters 21, 22, and 23 of the CSRS and FERS Handbook for Personnel and Payroll Offices, which can be found online at www.opm.gov/retire/pubs/handbook/hod.htm.

You can begin calculating what effect buying back your military time will have on your retirement eligibility by verifying the date your military service ended. To do so, you must obtain a copy of your discharge papers (Form DD 214) by submitting a written request to:

National Personnel Records Center
Military Personnel Records
1 Archives Drive
St. Louis, MO 63138

The NPRC may also be reached at:

Telephone: 314-801-0800
Fax: 314-801-9195

Upon your submission of Form DD 214, the finance center for your particular service branch will send you your estimated military earnings computation. The USPS Human Resources Shared Services Center can then use this information to determine the amount of your deposit, if applicable. If you choose to buy back your military time, the deposit must be paid prior to the date you retire from the USPS. Don't forget to retain your proof of payment.

Annual Leave Accrual

Career employees earn annual leave based on their years of creditable service. Creditable service is determined by adding time spent as a career Postal Employee and qualifying prior military service. Career employment in other federal agencies may also be added depending on the nature of the service.

Full-time employees are credited with annual leave as set forth in Section 512 of the Employee and Labor Relations Manual (ELM) based on their leave category. The following chart shows how the amount of leave earned is determined:

a. *Accrual Chart*. Table 1:

Leave Category	Creditable Service	Maximum Leave Per Year
4	Less than 3 years	4 hours for each full biweekly pay period; i.e., 104 hours (13 days) per 26-period leave year.
6	3 years but less than 15 years	6 hours for each full biweekly pay period plus 4 hours in last full pay period in calendar year; i.e., 160 hours (20 days) per 26-period leave year.
8	15 years or more	8 hours for each full biweekly pay period; i.e., 208 hours (26 days) per 26-period leave year.

b. *Credit at Beginning of Leave Year.* Full-time career employees are credited at the beginning of the leave year with the total number of annual leave hours that they will earn for that leave year.

c. *Changes in Employee's Accrual Rate*. Leave credit at the beginning of the leave year reflects any change in an employee's accrual rate for that year.

d. *Change From Part-time to Full-time*. An employee who changes from a part-time to a full-time employee after the start of a leave year is credited with the annual leave to be earned for the remainder of the leave year.

e. *Nonpay Status*. Leave credit for periods in which an employee is in a nonpay status is reduced during the leave year as follows:

(1) When an employee's absence in a nonpay status totals the equivalent of 1 pay period of regular service during the leave year (10 days or 80 hours), credit for leave is reduced by the amount of leave earned by the employee in a pay period.

(2) When an employee has one or more periods of LWOP during the leave year, all hours in a nonpay status (during periods in which the employee earned annual leave) are totaled to reduce leave credits.

Part-time employees accrue annual leave according to their years of creditable service and the number of hours worked in a pay period, according to the following chart from Section 512 of the ELM: Exhibit 512.312.

Leave Category	Years of Creditable Service	Maximum Leave per Year	Rate of Accrual	Hours in Pay Status	Hours of Leave Earned per Period
4	Less than 3 years	104 hours, or 13 days per 26-period leave year or 4 hours for each biweekly pay period.	1 hour for each unit of 20 hours pay in status.	20 40 60 80	1 2 3 4 (max.)
6	3 years but less than 15 years	160 hours, or 20 days per 26-period leave year or 6 hours for each full biweekly pay period.[1]	1 hour for each unit of 13 hours in pay status.	13 26 39 52 65 78	1 2 3 4 5 6 (max.)
8	15 years or more	208 hours, or 26 days per 26-period leave year or 8 hours for each full biweekly pay period.	1 hour for each unit of 10 hours in pay status.	10 20 30 40 50 60 70 80	1 2 3 4 5 6 7 8 (max.)

Military veterans may receive additional years of creditable service toward annual leave accrual. Section 512.23 of the ELM defines the military service that qualifies:

512.23 Military Service Counted
512.231 Service of an Employee Not Eligible for Military Retirement Annuity

The following military service is used in computing the years of service that determine the annual leave category:

a. Periods of active service terminated by honorable discharge or transfer to inactive reserves under honorable conditions. Active service may be in the Army, Air Force, Navy, Marine Corps, and/or Coast Guard and their respective academies.

b. Service performed by employees who are members of the National Guard Service or Air National Guard Service only during periods of active duty with the U.S. Army or U.S. Air Force.

c. Service performed by Naval Reserve Officers Training Corps students during periods of active duty or training duty as members of the Naval or Marine Corps Reserve.

Note: Veterans Affairs (VA) disability payments for service-connected injuries or illnesses are not retirement annuities. If a VA disability payment is received and the employee is not eligible for a military retirement annuity, 512.231 applies. If the employee is eligible for a military retirement annuity, 512.232 applies.

For example, an employee with two (2) years of career service would normally be in Leave Category 4. However, an employee with two (2) years of career service who had been honorably discharged after previously serving six (6) years of active military duty accrues annual leave under Leave Category 6. The years of active military service also count towards reaching the next leave earning category, so this same employee would reach Leave Category 8 after only nine (9) years in the Postal Service, rather than the 15 years it would take without the six (6) years of active duty military service.

Unlike obtaining retirement credit, there is no requirement for a veteran to "buy back" military service in order for it to increase the annual leave accrual rate. Additionally, military retirees may be eligible to have their service credited for annual leave accrual, in specific circumstances:

512.232 Service of an Employee Eligible for Military Retirement Annuity

The following military service is used in computing the years of service that determine the annual leave category:

a. **Full Credit**. Full leave accrual credit for all of active military service is granted if a military retiree meets one of the following four conditions:

(1) Retirement was based on disability resulting from injury or disease received in the line of duty as a direct result of armed conflict.

(2) Retirement was based on disability caused by an instrumentality of war and incurred in the line of duty during a period of war defined in 38 United States Code (U.S.C.) 101 and 301.

(3) On November 30, 1964, the employee was employed in a civilian office to which the Annual and Sick Leave Act of 1951 applied and continues to be employed in a civilian capacity without a break in civilian service of more than 30 days.

(4) The individual first becomes eligible for a uniformed services annuity while serving as a career employee. This provision applies to members of the Reserve Component of the Armed Forces (Reserves and National Guard) who (a) qualify for an annuity because of reserve service or (b) are involuntarily recalled to active duty under Title 10, qualify for uniformed services retirement during that period of active duty, and then are restored to federal civilian employment on completion of that period of involuntary military service.

This provision applies only to the employee's current period of civilian employment; if the employee separates and is reemployed later, the provision is no longer applicable.

b. **Partial Credit**. Military retirees who do not qualify for full leave accrual credit can qualify for partial credit based on the following:

(1) Service for determining an employee's leave category is restricted to the actual length of time in active service in the armed forces during any war or in any nonwartime campaign or expedition for which a campaign badge was authorized.

(2) Service in a nonwartime campaign or expedition does not entitle the military retiree to credit for the duration of the campaign or expedition but only for the period of service in the campaign or expedition.

Military veterans should review their PS Form 50 to ensure they have been given appropriate leave accrual credit for their military service.

The following rules and regulations pertaining to the crediting and usage of paid military leave are found in Section 517 of the Employee and Labor Relations Manual (ELM):

517 Paid Military Leave
517.1 General
517.11 Postal Service Support

The Postal Service supports employee service in the Reserve or National Guard, and no action is permitted to discourage either voluntary or involuntary participation. The Postal Service allows employees to be absent:

a. To participate in drills or meetings scheduled by the National Guard or Reserve Units of the armed forces.

b. To attend usual summer training periods.

c. To perform any other active duty ordered by the National Guard and Reserve Units of the armed forces.

However, eligible employees are entitled to paid military leave only for such duty as and to the extent provided below.

517.12 Definition

Paid military leave is authorized absence from postal duties for hours the employee would have worked during his or her regular schedule, without loss of pay, time, or performance rating, granted to eligible employees who are members of the National Guard or reserve components of the armed forces.

Note: Non-workdays are not charged against the paid military leave allowed.

517.13 Types of Duty
517.131 Duty Covered for Members of the Reserves and National Guard, Except D.C. National Guard

Types of duty covered as paid military leave include:

a. Active duty, field, and coast defense training.

b. Scheduled drills.

c. Service providing military aid for law enforcement purposes.

517.132 Duty Covered for Members of the D.C. National Guard

Types of duty covered as paid military leave include:

d. Parade or encampment activities of the D.C. National Guard.

e. Service providing military aid for law enforcement purposes as provided in 517.43.

517.133 Duty Not Covered

Types of duty *not* covered as paid military leave include:

a. Summer training as a member of Reserve Officer Training Corps.

b. Temporary Coast Guard Reserve.

c. Service with the National Guard, if ordered by the State Governors without authority of the Department of Defense, except when such service is in connection with regular annual encampment or for law enforcement purposes as specified in 517.43.

d. Training with a State Guard or other state military organization that is not a part of the National Guard or that was created to take the place of the National Guard during an emergency.

e. Weekly drills as member of D.C. National Guard.

f. Civil Air Patrol, established as a civilian auxiliary of the U.S. Air Force, and similar reserve and guard auxiliary organizations.

g. Time taken on a workday to travel to the place where training is to begin, unless military training orders encompass the period of travel time required.

517.2 Eligibility
517.21 Eligible Employees

Career postal employees, i.e., full-time, part-time regular, and part-time flexible employees who are members of the following components of the armed forces, are eligible for paid military leave:

a. The Army National Guard of the United States.

b. The Army Reserve.

c. The Naval Reserve.

d. The Marine Corps Reserve.

e. The Air National Guard of the United States.

f. The Coast Guard Reserve.

g. The Air Force Reserve.

517.22 Ineligible Employees

Permitted to be absent, but not eligible for paid military leave, are noncareer employees such as the following:

a. Casual employees.

b. Contract workers.

c. Noncareer rural carriers.

d. Temporary employees.

e. Transitional employees.

517.3 Procedures
517.31 Approval

The employee is to complete a PS Form 3971 before the period of absence. Sufficient notice is required for making necessary arrangements for replacements. If the employee does not learn of the need for the absence until later, notice is to be given as soon possible. The official responsible for approving the attendance record also approves military leave.

517.32 Use of Mixed Leave

Normally the first days of a longer period of military duty are charged to military leave. If circumstances warrant it, any other scheduled workdays during the longer active duty period may be designated as military leave instead of the days at the beginning of the military duty.

517.33 Use of Leave Intermittently

Military leave may be taken intermittently.

517.34 Return From Duty

For paid military leave approval, upon return from military duty to the Postal Service, the employee furnishes a copy of military orders or other documentation properly endorsed by appropriate military authority to show the duty was actually performed.

517.4 Military Leave Allowances
517.41 General Allowance

Eligible full-time and part-time employees receive credit for paid military leave as follows:

a. Full-time employees other than D.C. National Guard — 15 calendar days (120 hours) each fiscal year.

b. Part-time employees other than D.C. National Guard — 1 hour of military leave for each 26 hours in pay status (including military LWOP) in the preceding fiscal year provided:

(1) Employee was in pay status a minimum of 1,040 hours in the preceding fiscal year.

Note: A part-time employee's time on military LWOP in one fiscal year counts toward meeting the 1,040 hours' requirement for the next fiscal year.

(2) Employee's pay for military leave does not exceed 80 hours.

c. D.C. National Guard — all days (no limit) of parade or encampment duty ordered under Title 49, District of Columbia Code. An employee may carry over up to 1 year's allotted but unused (not to exceed 15 days) military leave from one fiscal year to the next.

Wounded Warriors Leave

Management is required to approve leave requests by disabled veterans to undergo medical examination or treatment related to their service-connected disabilities. Unfortunately, our veterans may not accrue enough paid leave, especially when they are first hired, to cover these absences. Prior to 2016, this meant many veterans with service-connected disabilities had to take unpaid leave to attend medical appointments.

In response to the passage of the Wounded Warriors Federal Leave Act of 2015, the Postal Service released a Management Instruction setting forth its policy guidelines and standard procedures for administering, at that time, a newly-created and distinct category of leave called Wounded Warriors Leave. Beginning November 05, 2016, certain veterans who chose to commence or resume a civilian career with the Postal Service following their military service became eligible to have credited and use up to 104 hours of Wounded Warriors Leave to undergo medical treatment for a service-connected disability rated at 30 percent or more. At that time, the Postal Service extended this benefit only to eligible new employees hired on or after November 05, 2016, as well as employees who left the Postal Service's employment or took military leave to participate in active-duty military service, sustained a service-connected disability rating of at least 30 percent during that military leave or service, and then returned directly from that leave or service on or after November 05, 2016.

Later that same year, the Postal Service decided this benefit would also be extended to all eligible employees who were on the rolls as of November 04, 2016, rather than only the employees described above. Those employees who were employed on November 04, 2016, and who otherwise met the eligibility requirements of the Wounded Warriors Federal Leave Act of 2015 were allowed to use up to 104 hours of Wounded Warriors Leave during the twelve-month period beginning November 05, 2016. Additionally, any eligible employees who used leave for a condition covered by the Act prior to the change were eligible to request to have their leave converted to Wounded Warriors Leave.

Beginning with the 2019 leave year, the Postal Service made further changes to Wounded Warriors Leave and it issued Management Instruction EL-510-2019-2. The most significant change is that beginning with the 2019 Leave Year, eligible employees started receiving 104 hours of Wounded Warriors Leave each leave year, instead of only previously receiving it for one 12-month eligibility period.

Eligible new employees receive 104 hours of Wounded Warriors Leave (as required by law) to be used for the remainder of that leave year. Each January, all disabled veterans with a 30 percent or more combined disability rating receive 104 hours of Wounded Warriors Leave to use during that leave year. At the end of each leave year, any remaining Wounded Warriors Leave

is forfeited but, assuming the employee still has a combined disability rating of 30 percent or more, he or she will receive a new 104 hours at the start of the new leave year. Any unused Wounded Warriors Leave is not rolled over to the next year, nor will it be paid out if the employee leaves.

The following reflects the rules regarding the eligibility and crediting of this leave:

Eligibility
Eligible Employees

All employees who have a single or combined service-connected disability rating of 30 percent or more are eligible for Wounded Warriors Leave.

Employees with Pending Disability Determinations

Otherwise eligible employees with pending disability determinations who at any time during any Leave Year receive a 30 percent or more disability rating, will be eligible for leave retroactively to the first day of that current Leave Year. Any leave without pay (LWOP) or leave used while the determination is pending will be reimbursed and replaced with Wounded Warriors Leave, as appropriate, up to the maximum number of hours allowed. Wounded Warriors Leave may be retroactively applied for only the most current Leave Year and for no more than 104 hours.

Losing the Disability Rating

If an employee's service-connected disability rating is decreased to below 30 percent or discontinued during any Leave Year then the employee no longer has a qualifying service-connected disability. The employee must notify the HR Shared Service Center of the effective date of the change in the disability rating. The employee is no longer eligible for Wounded Warriors Leave as of the effective date of the rating change.

Accrual and Crediting
General

It is an employee's responsibility to notify the Postal Service of his or her eligibility before requesting Wounded Warriors Leave. Employees must provide documentation to the HR Shared Service Center from the Department of Veterans Affairs (VA) certifying that the employee has the requisite level of service-connected disability.

Initial Eligibility

Newly hired eligible employees or those returning to the Postal Service will be credited with 104 hours of Wounded Warriors Leave following the Postal Service's receipt of documentation

supporting the employee's eligibility. Wounded Warriors Leave will be available for use retroactively to the first day of their enter-on-duty date, or the current Leave Year, whichever is later, for use through the end of the Leave Year.

Additional Eligibility

Eligible employees will be credited with 104 hours of Wounded Warriors Leave on the first day of each Leave Year and the leave is available for use until the last day of the Leave Year.

Carryover

Wounded Warriors Leave must be used during the Leave Year in which it is credited and will not be carried over. No employee may accrue more than 104 hours during any Leave Year

Separation

If the employee leaves the Postal Service at any time during any Leave Year, any remaining leave will not be reinstated or paid out, except as permitted by OPM regulations if the employee transfers to another federal agency.

Employees who need to provide information to the HR Shared Service Center referenced above may do so via mail or fax at the following addresses and fax numbers:

Career Employees

By Mail:

USPS/HRSSC
Attn: RTR Team
PO Box 970100
Greensboro, NC 27497-0100

By Fax:
(650) 577-4324

Non-Career Employees

By Mail:

USPS/HRSSC
Attn: Form 50 Team
PO Box 970400
Greensboro, NC 27497-0400

By Fax:
(336) 662-4070 or (336) 662-4073

Eligible employees are required to request this leave in advance when possible by completing and submitting a PS Form 3971, Request for or Notification of Absence to their supervisor. The employee should designate the reason for the absence as "Other" on the PS Form 3971 and write "Wounded Warriors Leave" in the space provided. The supervisor is responsible for approving or disapproving requests for Wounded Warriors Leave by signing PS Form 3971 and returning a copy to the employee.

Should the need to use this leave be unforeseeable, the employee must notify their supervisor of the absence, the expected duration, and the applicability of Wounded Warriors Leave. In offices where the Interactive Voice Response (IVR) system is used, the employee may record his or her absences by that method. In offices without the IVR system, the employee may notify the supervisor directly of the need for the absence. If the employee does not submit PS Form 3971 before the absence, the employee must complete the form upon his or her return to duty.

In addition, to verify that Wounded Warriors Leave requested by an employee is appropriately used for the treatment of a service-connected disability, the requesting employee must provide proof from the health care provider that the employee used the leave to receive treatment for a covered disability. The Postal Service created a form to be used for this verification. The form is PS Form 5980, Treatment Verification for Wounded Warriors Leave. Employees are required to submit a PS Form 5980 no later than 15 calendar days after they return to work.

Employees eligible for Wounded Warriors Leave may also be able eligible for protection under the Family and Medical Leave Act (FMLA). See Section 515 of the Employee and Labor Relations Manual for more information and eligibility requirements regarding FMLA. Supervisors will initiate FMLA leave if they have reasonable grounds to believe that the leave might qualify. It is the employee's responsibility to provide complete and sufficient documentation to establish eligibility for FMLA. FMLA protection will run concurrently with Wounded Warriors Leave.

Wounded Warriors Leave is a very important benefit to our members who are also veterans with a disability rated at 30 percent or greater. Disabled veterans generally are required to attend regular medical appointments to maintain their health and to continue their eligibility to receive their veterans' benefits. Frequently, it is unavoidable that such appointments must be scheduled during normal work hours and our veterans in the past were therefore often required to use LWOP or Sick Leave to attend those appointments. Wounded Warriors Leave provides relief to those who are eligible and must receive necessary treatment, and it provides that relief every year.

Information regarding the rules and regulations of Wounded Warriors Leave has been made available on the APWU website at apwu.org and can be found under the For Members tab, on the "Veterans Issues" page. A copy of PS Form 5980 is provided on the next page. After reviewing the Wounded Warriors Leave guidelines, if you have any further questions make sure to discuss them with your Steward or Local Union President.

UNITED STATES POSTAL SERVICE®

Treatment Verification for Wounded Warriors Leave

A. Employee Information (To be completed by the employee)

Name (Last, First, Middle Initial)	Employee ID	Date Submitted

Installation	Date of Appointment with Health Care Provider	Time of Appointment with Health Care Provider

I certify that I am requesting Wounded Warriors Leave in conjunction with a military service-connected disability rated at 30 percent or more. I have provided documentation to the Postal Service from the Department of Veterans Affairs, or on any Office of Personnel Management (OPM) certification form developed for administration of Wounded Warriors Leave, certifying that I have a qualifying service-connected disability, as required in Management Instruction EL-510-2016-7.

I also acknowledge that I have **15 calendar days** from the date I return to work to provide this verification to the appropriate supervisor to use Wounded Warriors Leave in lieu of sick leave, annual leave, or leave without pay.

Employee Signature	Date

Privacy Act Statement: Your information will be used to administer leave. Collection is authorized by 39 USC 401, 404, 1001, 1003, and 1005; and 29 USC 2601 et seq. Providing the information is voluntary, but if not provided, we may not process your request. Your information may be disclosed as follows: in relevant legal proceedings; to law enforcement when the USPS or requesting agency becomes aware of a violation of law; to a congressional office at your request; to entities under contract with USPS and/or authorized to perform audits; to labor organizations as required by law; to government agencies regarding personnel matters; to the EEOC; and to the MSPB or Office of Special Counsel. For more information regarding our privacy policies visit *www.usps.com/privacypolicy.*

B. Provider Information (To be completed by the health care provider)

Name of Physician/Provider	Specialty

Name of Health Care Facility	Contact Telephone Number

Please provide details of any treatment required, including the frequency and/or duration of any course of action you may prescribe, that would necessitate the employee taking additional leave from work beyond the date of appointment identified in the *Employee Information* portion of this verification form.

The above-referenced employee is requesting to take leave under the Wounded Warriors Federal Leave Act of 2015 for treatment of a service-connected disability, as certified by the U.S. Department of Veterans Affairs. Treatment is defined as an in-person visit to a health care provider and includes the course of action prescribed by a health care provider. Your signature below, as the health care provider, verifies that the identified employee is undergoing treatment for a certified disabling condition.

Health Care Provider Signature	Date

Printed Name

C. Official Action on Application (Return copy of signed request to employee)

☐ Approved ☐ Disapproved

Reason/Reason Code for disapproval (if applicable):

Supervisor Signature	Date

While the Postal Service normally has discretion to approve or disapprove leave requests, a disabled veteran who is directed to report for observation or treatment by a duly authorized medical authority must be granted leave to attend that appointment. Additionally, the employer cannot use the absence against the employee for disciplinary purposes.

Employees with a combined service-connected disability of 30 percent or greater are entitled to use Wounded Warriors Leave to receive medical treatment related to the disability. However, this entitlement is not the only protection for veterans with a service-connected disability.

These rights originated in Executive Order 5396, issued by President Herbert Hoover in 1930, which also clarified that veterans must give prior notice of the definite days and hours of absence to ensure the leave is approved:

Executive Order

Special Leaves of Absence to be Given Disabled Veterans in Need of Medical Treatment

With respect to medical treatment of disabled veterans who are employed in the executive civil service of the United States, it is hereby ordered that, upon the presentation of an official statement from duly constituted medical authority that medical treatment is required, such annual or sick leave as may be permitted by law and such leave without pay as may be necessary shall be granted by the proper supervisory officer to a disabled veteran in order that the veteran may receive such treatment, all without penalty in his efficiency rating.

The granting of such leave is contingent upon the veteran's giving prior notice of definite days and hours of absence required for medical treatment in order that arrangements may be made for carrying on the work during his absence.

Herbert Hoover

July 17, 1930

On October 28, 1988, the Postal Service agreed that President Hoover's 1930 Executive Order applied to disabled veterans employed by the U.S. Postal Service:

> *The parties at this level agree that Executive Order 5396, dated July 3, 1930, does apply to the Postal Service and that absences meeting the requirements of that decree cannot be used as a basis for discipline.*

The requested leave may be annual leave, sick leave, Wounded Warriors Leave, or leave without pay (LWOP). Generally, management has the sole discretion to approve or disapprove an employee's request for LWOP (in lieu of paid leave). However, the Postal Service must approve requests for LWOP by qualifying disabled veterans for medical treatment. Section 514.22 of the Employee and Labor Relations Manual (ELM) contains this exception:

514.22 Administrative Discretion

Each request for LWOP is examined closely, and a decision is made based on the needs of the employee, the needs of the Postal Service, and the cost to the Postal Service. The granting of LWOP is a matter of administrative discretion and is not granted on the employee's demand except as provided in collective bargaining agreements or as follows:

a. A disabled veteran is entitled to LWOP, if necessary, for medical treatment.

The need for veterans to obtain medical treatment for service-connected health issues has been recognized and protected for decades. Medical examination and treatment are important to maintaining good health so veterans should be aware the Postal Service acknowledges absences for these purposes are legally protected.

On-the-Job Injuries – OWCP/VA Dual Coverage

Many of our members have service-connected disabilities. The physical nature of their work, however, may aggravate previous service-connected disabilities. Veterans should understand their rights under federal law to compensation and other benefits for postal work-related injuries.

Military veterans are eligible for protection under both the Department of Veterans Affairs (VA) and the Federal Employee Compensation Act (FECA), which is administered by the Office of Workers' Compensation Programs (OWCP). Veterans with VA disability ratings sometimes suffer an aggravation of their pre-existing service-connected disability. These employees are still eligible for coverage under FECA, as long as the aggravation relates to their postal employment. While OWCP still covers such injuries, veterans need to be mindful of both the benefits and the limitations of dual coverage by VA and OWCP.

Under FECA, an injured employee whose OWCP claim is accepted is entitled to medical benefits and wage-loss compensation. Where VA increases a veteran's service-connected award because of a postal employment injury for which FECA benefits are payable, as outlined in the example below, an election between VA benefits and OWCP benefits is required.

Example:

A veteran, who is already receiving benefits from VA for a 50 percent disability based on a service-connected injury to the right knee, has a work-related injury that causes a disabling aggravation of his pre-existing right knee injury. OWCP determines that he has a total loss of wage-earning capacity due to the right knee injury. Subsequent to the employment injury, VA increases its award to 100 percent because of the aggravation by the postal employment injury.

Since an election between benefits is required in this case, the employee may elect:

- The amount of entitlement under FECA for his postal injury plus the amount he or she was already receiving from VA for 50 percent prior to the postal injury; or

- The total amount of entitlement from VA for 100 percent.

If the injury as a Postal Service employee is for the same body part as a service-related disability, OWCP can provide benefits for injury beyond the original VA disability rating. An injury unrelated to a VA disability rating is eligible for full coverage under FECA.

OWCP regulations require claims examiners to communicate with VA prior to the award of wage-loss compensation to prevent the dual payment of benefits. If this is not done properly, an overpayment of OWCP benefits may result.

An injured employee with a VA disability rating needs to be alert to the possibility of an overpayment, since the injured employee may need to repay the overage. OWCP asks injured workers if they have ever applied for disability benefits from VA in section 6 of Form CA-7, Claim for Compensation, and Form CA-1032/EN-1032, which is an affidavit of any work (or activity indicating an ability to work) which the injured employee has performed for the prior 15 months. Even if OWCP is aware of VA benefits, they might not adjust compensation. This would result in an overpayment, which can lead to substantial charges by OWCP and financial hardship to the injured employee.

Veterans who already have a VA disability rating for an injury should still file an OWCP claim if they suffer a work-related injury. Since most veterans with service-connected disabilities continue to get their health care from VA, they might want to continue to use their VA physician. However, under FECA a veteran who suffers a job-related injury has the option of choosing his or her attending physician, who may refer the employee to specialists for the injury.

While the regulations for coverage under both FECA and VA disability have complex rules, any veteran with a service-connected disability who suffers an injury in the course of performing his or her duties should file an OWCP claim to obtain the maximum protection under both agencies.

Sometimes, private sector organizations or individuals may reach out to an injured employee offering to assist with his or her compensation claim. The APWU cautions injured employees that these entities, which typically receive payment for providing advice or services, may not have the employee's best interests in mind.

For more information on the Federal Employees' Compensation Program, please visit the Department of Labor online at https://www.dol.gov/agencies/owcp/FECA/.

Veteran mental health services are essential in order to help our returning vets recover from their combat experiences and mental health issues related to their military service. The U.S. Department of Veterans Affairs has made supporting the health and well-being of the Nation's veterans and their families a priority. A major part of that support is providing timely access to high-quality, evidence-based mental health care. VA aims to address veterans' needs, during service members' reintegration into civilian life and beyond.

VA offers counseling services tailored to veterans' unique needs. In situations requiring immediate access to support, veterans have access to the Veterans Administration 24/7 Veterans Crisis Line by calling 800-273-TALK (800-273-8255) (TTY: 800-799-4889) or online at VeteransCrisisLine.net.

The VA Office of Mental Health and Suicide Prevention Guidebook provides information on the variety of mental health services that VA offers on both a national and local level. These programs and services are rooted in several core values:

Focus on Recovery
Keeping a focus on recovery from mental health challenges or substance use issues empowers veterans to take charge of their treatment and live a full and meaningful life. This approach focuses on the veteran's strengths offering respect, honor, and hope to veterans and the family members who support them.

Evidence-Based Treatments
VA provides treatments that are proven to be effective for mental health concerns. These treatments are time-limited and focus on helping veterans recover and meet their goals. To learn more about evidence-based mental health treatments, please visit treatmentworksforvets.org. You can also view a video, "Evidence-Based Treatment: What Does It Mean," and other brief videos about evidence-based treatments for Post-Traumatic Stress Disorder on the website for the VA National Center for PTSD.

Measurement-Based Care (MBC)
In MBC, the veteran and their health care provider use information provided by the veteran to improve mental health care and ensure it is individualized to the veteran's specific needs and goals. MBC helps veterans take an active role in their care. VA is working to ensure MBC is part of the care in all its Mental Health programs.

Round-the-Clock Service
Emergency mental health care is available 24 hours a day, 7 days a week at VA medical centers. VAMCs that do not have a 24-hour emergency room must provide these services through a

local, non-VA hospital. Telephone evaluations at VAMCs and the Veterans Crisis Line are also available 24/7.

Women veterans also have the option of calling the Women Veterans Call Center. The Call Center is currently available Monday through Friday 8 AM - 10 PM ET, and on Saturdays from 8 AM - 6:30 PM ET. All the representatives at the Women Veterans Call Center are women, and many are veterans themselves. In addition to linking women veterans to information, the Women Veterans Call Center makes direct referrals to Women Veteran Program Managers (WVPM) located at every VA medical center.

Because it is so important to have a place to turn for support, veterans (or family members of veterans living under the same roof) should contact the Employee Assistance Program (EAP), negotiated into the National Agreement through Article 35. Counseling through EAP is available by telephone at 800-EAP-4YOU (800-327-4968) (TTY: 877-492-7341) and by visiting the EAP website at https://usps.ndbh.com/EAP.

EAP is free, confidential, and available in several formats. Counselors are available for in-person sessions, phone sessions, or through an online chat platform. The APWU negotiated EAP into our contract to address a variety of problems experienced by our members, including veterans. Specifically, Article 35 of the Collective Bargaining Agreement provides:

Section 1. Programs

The Employer and the Union express strong support for programs of self-help. The Employer shall provide and maintain a program which shall encompass the education, identification, referral, guidance and follow-up of those employees afflicted by the disease of alcoholism and/or drug abuse. When an employee is referred to the EAP by the Employer, the EAP staff will have a reasonable period of time to evaluate the employee's progress in the program.

This program of labor-management cooperation shall support the continuation of the EAP for alcohol and/or drug abuse at the current level. In addition to the current EAP, the EAP will be expanded, as provided in Section 2 hereof, to encompass the education, identification, referral and guidance of:

1. employees' family members afflicted with alcoholism and/or drug abuse which could or does have a negative impact on the employee's work performance; and

2. those employees and their families experiencing other family and/or personal problems which could or do have a negative impact on the employee's work performance.

An employee's voluntary participation in the EAP for assistance with alcohol and/or drug abuse will be considered favorably in disciplinary action proceedings.

Some counselees believe participation in EAP will negatively affect their jobs. Chapter 9 of the Employee and Labor Relations Manual (ELM) specifically refutes that notion, stating:

941.31 Job Security

Participation in EAP is voluntary and will not jeopardize the employee's job security or promotional opportunities.

In fact, seeking counseling demonstrates the employee is taking steps on his or her own to correct a problem. Because of this, EAP can be helpful in the grievance procedure if management contemplates disciplining an employee who is getting counseling for the problem that contributed to the alleged misconduct.

941.33 Confidentiality

Inquiries regarding participation in EAP counseling are confidential, pursuant to the provisions of 944.4. EAP records may not be placed in an employee's official personnel folder (OPF).

Furthermore, an employee's first EAP session is on the clock, if the employee wishes. Section 941.35 of the ELM covers the rules for scheduling an EAP counseling session:

941.35 Scheduling

The following guidelines apply to scheduling and whether EAP sessions take place on or off the clock:

a. An employee's first visit to EAP is on the clock, whether the visit is initiated by management, the Union representative, or the employee (unless the employee prefers to visit the EAP unit on his or her own time).

b. Subsequent consultations are on the employee's own time.

c. If a reasonable period of time has elapsed since a management referral or a previously disclosed self-referral, the manager or supervisor may, on a case-by-case basis, approve an additional on-the-clock session.

d. To receive pay for an on-the-clock session, the employee must authorize the EAP provider to disclose his or her attendance to management.

EAP provides an opportunity to address troubling personal circumstances by working with a trained counselor who is ready to listen and offer guidance. It is also important to remember that rights to use EAP are guaranteed without fear of harassment or reprisal and are strictly confidential.

Layoffs and Reduction in Force

In the Collective Bargaining Agreement (Union Contract) the APWU has negotiated great job security, with protection against lay-off for career employees with more than six years continuous postal service employment. The contract does contain language permitting the Postal Service to involuntarily separate employees in certain limited situations. If this occurs, preference eligible veterans have additional protections.

Article 6 of the National Agreement covers “Layoffs and Reduction in Force.” The meanings of these terms as used in our contract are unique. Article 6, Sections C, D, and F provide the following information on the definitions of layoff, reduction in force, recall rights and union representation rights:

Article 6.C. Layoff and Reduction in Force

1. **Definition**. The term “layoff” as used herein refers to the separation of non-protected, non-preference eligible employees in the regular workforce because of lack of work or other legitimate, non-disciplinary reasons. The term “reduction in force” as used herein refers to the separation or reduction in the grade of a non-protected veterans’ preference eligible in the regular workforce because of lack of work or other legitimate non-disciplinary reasons.

2. **Order of layoff**. If an excess of employees exists at an installation after satisfaction of the preconditions set forth in (B) above, the Employer may lay off employees within their respective seniority units as defined in the Agreement.

3. **Seniority units for purposes of layoff**. Seniority units within the categories of full-time regular, part-time regular, and part-time flexible, will consist of all non-protected persons at a given level within an established craft at an installation unless the parties agree otherwise. It is the intent to provide the broadest possible unit consistent with the equities of senior non-protected employees and with the efficient operation of the installation.

4. **Union representation**. Chief stewards and Union stewards whose responsibilities bear a direct relationship to the effective and efficient representation of bargaining unit employees shall be placed at the top of the seniority unit roster in the order of their relative craft seniority for the purposes of layoff, reduction in force, and recall.

5. **Reduction in force**. If an excess of employees exists at an installation after satisfaction of the preconditions set forth in (B) above, and after the layoff procedure has been applied, the Employer may implement a reduction in force as defined above. Such reduction will be conducted in accordance with statutory and regulatory requirements that prevail at the time the force reduction is effected. Should applicable laws and regulations require that other nonprotected, non-preference eligible employees from other seniority units be laid off prior to reduction in force, such employees will be laid off in inverse order of their craft seniority in the seniority unit.

In determining competitive levels and competitive areas applicable in a force reduction, the Employer will submit its proposal to the Union(s) at least 30 days prior to the reduction. The Union(s) will be afforded a full opportunity to make suggested revisions in the proposal. However, the Employer, having the primary responsibility for compliance with the statute and regulations, reserves the right to make the final decision with respect to competitive levels and competitive areas. In making its decision with respect to competitive levels and competitive areas the Employer shall give no greater retention security to preference eligibles than to non-preference eligibles except as may be required by law.

Article 6.D. Recall Rights

1. Employees who are laid off or reduced in force shall be placed on recall lists within their seniority units and shall be entitled to remain on such lists for two (2) years. Such employees shall keep the Employer informed of their current address. Employees on the lists shall be notified in order of craft seniority within the seniority unit of all vacant assignments in the same category and level from which they were laid off or reduced in force. Preference eligibles will be accorded no recall rights greater than non-preference eligibles except as required by law.

Notice of vacant assignments shall be given by certified mail, return receipt requested, and a copy of such notice shall be furnished to the Local Union President. An employee so notified must acknowledge receipt of the notice and advise the Employer of his or her intentions within five (5) days after receipt of the notice. If the employee accepts the position offered, he or she must report for work within two (2) weeks after receipt of notice. If the employee fails to reply to the notice within five (5) days after the notice is received or delivery cannot be accomplished, the Employer shall offer the vacancy to the next employee on the list. If an employee declines the offer of a vacant assignment in his or her seniority unit or does not have a satisfactory reason for failure to reply to a notice, the employee shall be removed from the recall list.

2. An employee reassigned from a losing installation pursuant to B.5 above and who has retreat rights shall be entitled under this Article to exercise those retreat rights before a vacancy is offered to an employee on the recall list who is junior to the reassigned employee in-craft seniority.

Article 6.F.3. Union Representation Rights

3. Preference eligibles are not deprived of whatever rights of appeal such employees may have under applicable laws and regulations. However, if an employee exercises these appeal rights, the employee thereby waives access to any procedure under this Agreement beyond Step 3 of the grievance-arbitration procedure.

The term “non-protected” referenced above refers to employees who are not “protected” as defined by Article 6. In order to gain protection, career employees must meet one of the conditions set forth in Article 6, Sections 1 and 2, which state in pertinent part:

(1) Each employee who is employed in the regular work force as of the date of the Award of Arbitrator James J. Healy, September 15, 1978, shall be protected henceforth against any involuntary layoff or force reduction.

(2) Employees who become members of the regular work force after the date of this Award, September 15, 1978, shall be provided the same protection afforded under (1) above on completion of six years of continuous service and having worked in at least 20 pay periods during each of the six years.

The term “regular work force” for purposes of layoffs and reduction in force is defined in Article 7 of the Collective Bargaining Agreement:

Article 7, Section 1. Definition and Use

A. **Regular Workforce**. The regular workforce shall be comprised of two (2) categories of employees which are as follows:

1. **Full-Time**. Employees in this category shall be hired pursuant to such procedures as the Employer may establish and shall be assigned to regular schedules consisting of five (5) eight (8) hour days in a service week.

2. **Part-Time**. Employees in this category shall be hired pursuant to such procedures as the Employer may establish and shall be assigned to regular schedules of less than forty (40) hours in a service week, or shall be available to work flexible hours as assigned by the Employer during the course of a service week.

This language makes it clear that all career employees are part of the “regular work force” for purposes of implementing Article 6 of the Collective Bargaining Agreement.

The National Agreement provides that, except for shop stewards, among non-protected employees, veterans’ preference eligible employees would be the last employees affected if the Postal Service instituted involuntary separations for lack of work or other legitimate, non-disciplinary reasons.

Preference eligible veterans may also appeal reduction in force actions through the Merit Systems Protection Board (MSPB).

The Merit Systems Protection Board (MSPB or Board) is a quasi-judicial independent agency in the executive branch charged with protecting federal employees against improper employment related actions. The Board works to ensure, for example, that federal agencies avoid taking arbitrary action against employees, exhibiting favoritism, or engaging in reprisals against whistleblowers. The MSPB also aims to promote an effective federal workforce free of certain types of discrimination and other prohibited personnel practices. While the Board mainly carries out its mission through adjudication of federal employment-related disputes, it also performs specified oversight functions related to federal employment, including conducting special studies of the civil service and other executive branch merit systems.

Established by the Civil Service Reform Act of 1978, the MSPB consists of three Board members, appointed by the President with the advice and consent of the Senate. Not more than two Board members may be adherents of the same political party. The term of office of each Board member is seven years, and terms are nonrenewable. Board members may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. The Board operates concurrently with the Office of Special Counsel, an independent, prosecutorial federal agency. The Special Counsel receives and investigates complaints related to certain kinds of federal agency misconduct and may petition the Board for corrective action.

The MSPB operates like a tribunal and maintains procedures for conducting hearings, examining evidence, and rendering decisions. Most cases the Board reviews are federal employee appeals of adverse actions, including those related to removal or suspension of employment. When the MSPB determines that a federal employee has been subject to an improper adverse action, the Board can issue orders that compel agencies to reverse these actions and, depending upon the particular agency action in question, may order relief, including reinstatement, backpay, and attorney's fees.

The Board also maintains original jurisdiction over certain types of cases in which it hears and decides the case initially rather than reviews an agency decision. For example, the MSPB may adjudicate cases brought by the Office of Special Counsel related to a prohibited personnel practice. The Special Counsel may, among other things, petition the Board for a stay of an adverse employment action in relation to this practice. Some of the Board's adjudicatory functions, including appeals of adverse action decisions, typically are carried out by "administrative judges" employed by the Board, while administrative law judges (ALJs) may examine matters coming under the Board's original jurisdiction.

Federal employees or applicants for employment who are adversely affected by a final order or decision of the MSPB may obtain judicial review. The U.S. Court of Appeals for the Federal Circuit (Federal Circuit) is generally the proper judicial forum for these cases. Federal law compels the Federal Circuit to examine these cases under a standard of review that is deferential

to the MSPB's determination. Consequently, the Federal Circuit typically upholds Board decisions. But a special jurisdictional rule exists for so-called "mixed cases" involving an alleged violation of federal antidiscrimination laws in connection with an improper adverse personnel action. Following the MSPB's decision on the merits in a mixed case, affected employees may seek judicial review in federal district court rather than the Federal Circuit. District court review is generally preferable for the petitioning federal employee, as district courts typically review these discrimination-related claims under a *de novo standard* (i.e., affording no deference to the determination of the MSPB).

The Postal Service has incorporated this veterans' appeal process into Chapter 6, Section 666.23 of the Employee and Labor Relations Manual (ELM), which states:

666.23 Adverse Action Appeals to the Merit Systems Protection Board

All employees eligible for veterans' preference and certain other nonbargaining unit employees with one year of current continuous service in the same or similar position may appeal removals, reductions in grade or pay, suspensions of more than 14 days, or furloughs of 30 days or less. The appeal must be made to the Merit Systems Protection Board (MSPB) within 30 days of the effective date of the action. Preference eligible employees may also appeal reduction-in-force (RIF) actions to the MSPB.

Article 16, Section 9 of our Collective Bargaining Agreement outlines preference eligible veterans' rights with respect to the Act and states in relevant part:

> *"A preference eligible is not hereunder deprived of whatever rights of appeal are applicable under the Veterans' Preference Act."*

This means preference eligible veterans have two avenues to appeal a discharge or a suspension of more than 14 days. They may file a grievance under Article 15 of the Collective Bargaining Agreement and/or an appeal through MSPB. However, while a preference eligible veteran may appeal the adverse action in both forums, there are limits that apply. Article 16, Section 9 continues and states in relevant part:

> *"... if the employee appeals under the Veterans' Preference Act, the employee will be deemed to have waived further access to the grievance-arbitration procedure beyond Step 3..."*

In other words, a veterans' preference eligible employee may file an initial appeal in a grievance and through MSPB, but a choice between them must be made by the date the Article 15 grievance is scheduled for arbitration.

Preference eligible veterans also receive an additional, informal benefit with respect to emergency suspensions imposed pursuant to Article 16, Section 7 of the National Agreement, which provides in pertinent part:

16.7. Emergency Procedure – (in part)

"An employee may be immediately placed on an off-duty status (without pay) by the Employer... The employee shall remain on the rolls (non-pay status) until disposition of the case has been had..."

Preference eligible veterans are entitled to 30 days' advance notice for adverse actions, including suspensions of more than 14 days. Due to the immediate nature of a suspension in accordance with Article 16, Section 7, no advance notice is possible. Without 30 days' advance written notice it would be a violation of the Veterans' Preference Act to retain a preference eligible veteran in a non-pay status longer than 14 days under this provision. Therefore, management usually returns veterans' preference eligible employees to a pay status after 14 days in a non-pay status.

If a preference eligible veteran is suspended under Article 16, Section 7 without 30 days' advance notice and is not returned to a pay status before 14 days have elapsed, the veteran should file an MSPB appeal in addition to a grievance. As previously stated, while a veterans' preference eligible employee may file both a grievance and an MSPB appeal protesting an adverse action, he or she must choose which appeal to pursue by the date the grievance is scheduled for arbitration.

Information on appeal rights and time limits for filing an MSPB appeal are found in Sections 1201.21 and 1201.22 of Title 5 of the CFR:

1201.21 Notice of appeal rights.

When an agency issues a decision notice to an employee on a matter that is appealable to the Board, the agency must provide the employee with the following:

(a) Notice of the time limits for appealing to the Board, the requirements of § 1201.22(c), and the address of the appropriate Board office for filing the appeal;

(b) A copy, or access to a copy, of the Board's regulations;

(c) A copy, or access to a copy, of the MSPB appeal form available at the Board's Web site (https://www.mspb.gov/), and

(d) Notice of any right the employee has to file a grievance or seek corrective action under subchapters II and III of 5 U.S.C. chapter 12, including:

(1) Whether the election of any applicable grievance procedure will result in waiver of the employee's right to file an appeal with the Board;

(2) Whether both an appeal to the Board and a grievance may be filed on the same matter and, if so, the circumstances under which proceeding with one will preclude

proceeding with the other, and specific notice that filing a grievance will not extend the time limit for filing an appeal with the Board;

(3) Whether there is any right to request Board review of a final decision on a grievance in accordance with § 1201.155 of this part; and

(4) The effect of any election under 5 U.S.C. 7121(g), including the effect that seeking corrective action under subchapters II and III of 5 U.S.C. chapter 12 will have on the employee's appeal rights before the Board.

(e) Notice of any right the employee has to file a complaint with the Equal Employment Opportunity Commission or to grieve allegations of unlawful discrimination, consistent with the provisions of 5 U.S.C. 7121(d) and 29 CFR 1614.301 and 1614.302.

(f) The name or title and contact information for the agency official to whom the Board should send the Acknowledgment Order and copy of the appeal in the event the employee files an appeal with the Board. Contact information should include the official's mailing address, email address, telephone and fax numbers.
[As amended at 77 FR 62364, Oct. 12, 2012; 78 FR 21518, Apr. 11, 2013]

1201.22 Filing an appeal and responses to appeals.

(a) Place of filing. Appeals, and responses to those appeals, must be filed with the appropriate Board regional or field office. See § 1201.4(d) of this part.

(b) Time of filing. (1) Except as provided in paragraph (b)(2) of this section, an appeal must be filed no later than 30 days after the effective date, if any, of the action being appealed, or 30 days after the date of the appellant's receipt of the agency's decision, whichever is later.

Preference eligible veterans who receive discipline in excess of a 14-day suspension should be sure to notify their shop steward of both the discipline and their veterans' preference eligible status so the steward can ensure proper procedures are followed.

Veterans should also note that the MSPB is not part of the contractual grievance procedure, so while the APWU will represent you in the grievance-arbitration procedure, it does not represent employees in MSPB appeals.

233.33 Reinstatement and Reemployment
233.331 Reinstatement and Reemployment in General

The Postal Service may fill a career position by reinstatement, which is the noncompetitive appointment of an individual with reinstatement eligibility. Handbook EL-312, *Employment and Placement*, states that even though an individual has prior career federal service, he or she must still be qualified for the position sought:

233.334 Time Limit for Reinstatement

Even if an individual meets the requirements in 233.332 through 233.333, there may be a time limit on his or her reinstatement eligibility, depending on the following factors:

a. Veterans' preference eligible: no time limit on reinstatement eligibility. There is no time limit on reinstatement eligibility of an individual who is veterans' preference eligible.

Note: For the purpose of reinstatement eligibility, an individual is considered to be veterans' preference eligible if he or she meets the statutory and regulatory requirements for veterans' preference eligibility status on or before the effective date of reinstatement. The individual need not have met those requirements on the effective date of his or her separation from the last career appointment in the Postal Service or last competitive service appointment in another federal entity upon which reinstatement eligibility is based.

233.338 Reemployment Rights Under USERRA

a. **USERRA**

A current or former Postal Service employee may have reemployment rights to a career position under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA), following completion of active duty in a uniformed service.

USERRA prohibits discrimination against an applicant or an employee on the basis of service in the uniformed services and prohibits acts of reprisal for exercising a right stipulated in its provisions or for seeking its enforcement. The remedy for violations of USERRA may include the award of back pay, lost benefits, and legal costs.

77 Employment Restoration After Military Service
771 Policy

It is the Postal Service's policy to comply with the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA).

It is the responsibility of postal management to ensure that personnel actions comply with the requirements of USERRA.

771.1 Employment and Placement
771.1 Eligibility

Reemployment rights are extended to employees who were absent from work because of active duty in the uniformed services, including the following:

a. **Uniformed Services.** Consist of the following military branches: Army, Navy, Marine Corps, Air Force, Coast Guard, their respective reserve components and the Army and Air National Guard; Commissioned Corps of the Public Health Service; and any other category of persons who are designated by the President as uniformed service in time of war or emergency.

b. **Types of uniformed service (voluntary or involuntary).** Consists of the following: active duty, active duty for training, including initial training, inactive duty training, full-time National Guard duty, or time needed for an examination to determine fitness for any of the above types of duty.

c. **Types of postal positions covered.** Includes all career and temporary classifications. Casual employees, in some situations, are covered by USERRA. Temporary and eligible casual employees are reemployed for the remainder of their term if temporary employees are still used. The time spent in active service is not counted against the term of temporary appointment.

771.2 Duration of Uniformed Service

Under USERRA, the cumulative length of absence from employment because of military service is limited to 5 years. The following are exceptions to this limit:

a. Service required in excess of 5 years to complete the initial period of service obligation.

b. Service from which a person, without control over the circumstances, is unable to obtain release.

c. Required training for reservists and National Guard members. This training includes inactive duty drills, active duty training periods, and any additional training mandated as essential to the professional development of service members by a specific secretary of a uniformed service.

d. Service required under an involuntary order to active duty or to be retained on active duty because of domestic emergencies or national security matters.

e. Service as a result of an order to active duty or to remain on active duty during a war or a national emergency declared by the President or Congress.

f. Active duty performed in support of an operational mission for which selected reservists have been involuntarily activated.

g. Active duty performed in support of a critical mission or critical requirement during the time of no involuntary call-up, no war, or national emergency. The Secretary of a uniformed service has the authority to designate a military operation as a critical mission or requirement.

Resources

APWU Websites:
https://www.apwu.org
https://www.apwu.org/veterans-issues

USPS – LiteBlue:
https://liteblue.usps.gov

Employee Assistance Program (EAP):
1-800-EAP4YOU (1-800-327-4968) (TTY: 877-492-7341)
https://usps.ndbh.com/EAP

Merit Service Protection Board (MSPB):
https://www.mspb.gov

Office of Personnel Management:
https://www.fedshirevets.gov/veteran-employees
https://www.opm.gov/policy-data-oversight/veterans-services/vet-guide-for-hr-professionals

Department of Labor:
https://webapps.dol.gov/elaws/vetspref.htm

Department of Veterans Affairs:
https://www.va.gov

VA - 24/7 Veterans Crisis Line:
9-8-8 – National Suicide Prevention Hotline
1-800-273-TALK (1-800-273-8255) (TTY: 800 799 4889)
Chat online
Text to **838255**
https://www.veteranscrisisline.net

VA - Women Veterans Call Center:
1-855-VA-Women (1-855-829-6636)
* This Call Center is currently available Monday through Friday 8 AM - 10 PM ET, and on Saturdays from 8 AM - 6:30 PM ET
https://www.womenshealth.va.gov/WOMENSHEALTH/ProgramOverview/wvcc.asp

VA - 24/7 War Vet Call Center:
1-877-WAR-VETS (1-877-927-8387)
https://www.vetcenter.va.gov/media/Call-Center-PSA.asp

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Produced by the
American Postal Workers Union, AFL-CIO
Industrial Relations Department
Charlie Cash, Director
Special Thanks to Michael Macho
Manager, Negotiations Support and Special Projects