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Veteran Rights and Discrimination: Are You A Victim Of Veteran Discrimination?

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Learn more about veteran rights and discrimination, and to see if you or a family member may have been illegally discriminated against for a civilian job. You sacrificed for your country and now it's time for your country's legal system to work to protect your rights.

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Veteran Rights and Discrimination: Are You A Victim Of Veteran Discrimination?



Veteran discrimination, also called veteran status discrimination, occurs anytime being a veteran and former uniformed military service member makes them a target of workplace prejudice and employment discrimination. When veteran discrimination applies to a disabled veteran it's called disabled veteran discrimination, and may be protected under veteran specific legislation or overarching acts like the Americans with Disabilities Act (ADA). Under the conditions of veteran discrimination, bias and prejudice can impact veterans ability to work and have an effect on their overall quality of life.

There are over 20 million veterans in the United States. Among veterans groups, Gulf War veterans made up the largest portion of veterans in 2016, surpassing Vietnam veterans for the first time. Fewer people are signing up for armed forces, which means veteran status is declining. This decline is expected through 2045, where military members will drop to about 40% of the current military force. However, just because the numbers of veterans are decreasing, however, doesn't mean your rights are less important.

If you're a veteran and you think you've been a victim of either veteran discrimination or disabled veteran discrimination, you may need a [lawyer](https://florinroebig.com/employee-rights/discrimination/) (<https://florinroebig.com/employee-rights/discrimination/>). **Here's what you need to know:**

What Is Veteran Discrimination?

One form of veteran discrimination occurs when a veteran cannot get employment due to veteran status or disability. Sometimes also called veteran status discrimination.

Facts about veteran discrimination

The Bureau of Labor Statistics (BLS) says that around 3%-4% of all veterans experienced joblessness in 2019. As mentioned above, Gulf War military veterans make up the largest group of veterans and of this group, 41% experienced disability. These numbers are exceptionally high when the number sits around 25% of all other veterans. When it comes to disabled veterans the unemployment rate sits at almost 5%.

That fact indicates the difficulties disabled veterans have in the workplace, which in some cases includes employment discrimination. This may conflate the fact that Gulf War veterans struggle to get the best care to treat common problems associated with warlike traumatic brain injury and post traumatic stress disorder (PTSD). According to the American Bar Association, a recent study suggests the VA is ill-equipped to handle the array of psychological and intellectual problems associated with common conditions, leading to an influx of mood disorders like major depression and other functional abnormalities that may manifest episodically in the workplace.

Key findings in a RAND study suggest that young veterans who recently separated from the military have the most trouble readjusting to the workforce, experiencing the highest unemployment levels, which may go down with time away from the military and age.

Three primary laws that deal with veteran discrimination can help veterans, including those with a service related disability, with employment discrimination issues. **These are:**

- Uniformed Services Employment and Reemployment Rights Act
- Vietnam Era Veterans' Readjustment Assistance Act of 1974
- Americans with Disabilities Act of 1990

Uniformed Services Employment and Reemployment Rights Act (USERRA)

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service. This includes National Guard members and reservists. **USERRA protections fall under 3 broad categories:**

- **Reemployment rights:** You have the right to reemployment in your civilian job as long as certain conditions are met, including proper notice to your employer prior to service and prompt return to your civilian position after service is complete.
- **Protections from Discrimination & Retaliation:** Affiliation with uniformed services cannot prevent you from employment, reemployment, promotion, retention, or other employment benefits.
- **Health Insurance Protection:** You have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military or to be reinstated to that health plan upon return.



Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA)

The Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) assists in returning Vietnam veterans and aims to protect them from employment discrimination by requiring companies that have federal contracts over \$100,000 to take active action to recruit and hire qualified disabled veterans.

Despite the name, VEVRAA doesn't only protect Vietnam era veterans. There are several categories of veterans protected under the statute.

Protected Veterans under the VEVRAA:

- Disabled veterans
- Recently separated veterans
- Active duty wartime or campaign veterans
- Campaign badge veterans
- Armed Forces service medal veterans

The VEVRAA outlines several affirmative duties that covered employers must abide by in their recruiting and hiring processes.

Americans with Disabilities Act of 1990 (ADA)

The ADA prohibits private and state and local government employers with 15 or more employees from discriminating against individuals based on disability. Any veteran with a disability who meets the ADA's definition is covered, regardless of whether the disability is service-connected. The U.S. Equal Employment Opportunity Commission (EEOC) enforces these rights.

Disabled Veterans Rights: What Veteran Rights Should I Know About?

As previously mentioned, laws entitle veterans to individual rights. **They are as follows:**

1. Any person with a disability, including previously military service members, cannot be treated unfavorably because of the disability in any aspect of employment. Specifically, covered rights include protecting during hiring, promotions, assignments, termination, training, and more.
2. People with disabilities are also protected against harassment and retaliation in the workplace from co-workers, supervisors, etc.
3. Whether veteran or not, anyone with a disability is entitled to reasonable accommodations at work, barring significant difficulty or expense to the employer, reasonable accommodations that allow a person with disabilities to perform a role they are otherwise capable of performing are rights under the ADA.
4. An early piece of legislation called the Rehabilitation Act (1973) applies the same standards for reasonable accommodation to government posts like the Federal Executive Branch or US Postal Service, protecting employment rights across the board.
5. An employer cannot refuse to hire a person with disabilities because you require a reasonable accommodation to enact the job's duties.
6. Under VEVRAA, an affirmative action policy gives disabled veterans preference on contracts of \$100,000 and above. That same preference is not mandatory in the hiring process, although an employer may choose to provide a disabled veteran preference.
7. Employers are not allowed to ask about a candidate's disabilities, even when they are apparent, during a job interview or otherwise. An employer can ask if and what kind of reasonable accommodations an employee needs. However, they can inquire about a specific disability or condition.
8. People with disabilities are not required to disclose their condition during the pre-employment process. Although, if someone has a disability that requires accommodation they should discuss said accommodation early with the potential employer. At the time of an offer, employers can exercise their right to pre-employment medical screenings or questions about medical conditions provided that everyone has to onboard with the same process.
9. Employers who give preference to disabled veterans may ask if you are a disabled veteran on an application. This question is either optional or for affirmative action per VEVRAA.
10. Disabled employees have the right to reasonable accommodations. **These include:**
 - Written materials or Braille
 - Extra time for test-taking
 - Accessible locations to perform work
 - Modified equipment and surroundings



- Working from home accommodations
- Job coaching
- Amended methods and processes
- Reassignment in some cases

Are Veterans A Protected Class?

Yes. Some veterans are a protected class. If veterans qualify for a protected class under the requirements of VEVRAA or ADA, they are protected.

Protected Veteran Status established by VEVRAA requires military contractors to actively recruit and retain veterans in the workplace.

Under the ADA, veterans may also be protected as a person with disabilities if they meet ADA definitions of disability that are as follows:

“The ADA defines an “individual with a disability” as a person who (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of such an impairment (i.e., was substantially limited in the past, such as prior to undergoing rehabilitation); or (3) is regarded, or treated by an employer, as having such an impairment, even if no substantial limitation exists. You are considered qualified if you are able to meet an employer’s requirements for the job, such as education, training, employment experience, skills, or licenses, and can perform the job’s essential or fundamental duties with or without reasonable accommodation.”

An amendment to the ADA in 2008 made it easier for veterans to qualify for this protected status by broadening the range of conditions considered for protection. This addition partly included problems that may not affect every aspect of someone’s life, including episodic conditions like PTSD that may only need to have reasonable accommodations (<https://florinroebig.com/employee-rights/retaliation/>), made occasionally, per request.

While the ADA, the U.S. Department of Defense, and the U.S. Department of Veterans Affairs (VA) all have different standards for determining eligible disabilities, a number of service-related conditions are already considered disabilities written into the ADA for the protection of veterans.

Examples Of Discrimination Against Veterans

With over 20 million veterans in the United States, you may be one who is experiencing, or has experienced, the many ways in which discrimination can impact a veteran’s well being and employment status. **Here are some examples of what veteran discrimination might look like:**

- **“I’m sorry, but that position is not available”:** When a position, like a promotion, is listed on an internal job board and it is suddenly out of reach when a veteran tries to apply for it. That could be an example of veteran discriminatory practices. Another way this occurs is during an interview when a disabled veteran has gotten to the first steps of the process, but indicators during the interview seem to present systemic challenges. The latter of the two is the hardest to prove in an EEOC filing.
- **“I don’t hire veterans”:** This phrase embodies the bias of overt discrimination. In a case like this, the employer isn’t even trying to hide their improper practices. Perhaps, they are not knowledgeable about discrimination, or they simply don’t care or don’t think you have any recourse. While this kind of reaction is rare, it can occur and certainly qualifies as a discriminatory hiring practice under the law.
- **“I’m sorry, but you won’t be receiving the raise we discussed”:** Employers can’t take away benefits that impact veterans like vacation days and sick time, or annual raises or opportunities for promotion. An employer may try something that strips you of your pension or other important long-term benefits in some cases.
- **“I just think your PTSD means you aren’t cut out for the role”:** Employers are not allowed to judge candidates based on medical conditions. They may only ask them if they need accommodation and what kind of accommodation they need.

Examples Of Companies Engaging Veterans Legally

Below are some examples of how companies can engage veterans concerning disability to ensure that no discrimination occurs and their needs are met:

- **“Do you need assistance with this task?”:** If a job requires a physical duty, or otherwise, and an employee has a disability preventing them from completing the task, an employer is allowed to ask how they can assist so that the employee or candidate can more easily accomplish task.



- **“Can you demonstrate/describe how you will perform this task?”:** In an interview, an employer can ask a veteran with disabilities to describe or demonstrate the tasks required for the job, leading to the satisfactory completion of the job or a discussion about reasonable accommodation for the candidate.
- **“Are you a disabled veteran?”:** Pre-employment forms are allowed to ask you to self-identify as a disabled veteran if you so choose. In instances where affirmative action is mandated under VEVRAA, this question can be mandatory.
- **“Are you able to submit to our pre-employment health screening?”:** In some cases, pre-employment medical screening or disclosure may be necessary for the job. As long as it’s applied to all employees the same way, it’s not a discriminatory practice.

What Laws Protect Veterans?

Three major laws protecting veterans from workplace discrimination are VEVRAA, USERRA, and ADA. Early veteran’s rights legislation, the Rehabilitation Act, also establishes protocols for non-discriminatory hiring practices against veterans.

The Veterans Preference Act is another law that ensures hiring preference for veterans with and without disabilities from competitive lists of potential employees and specifies conditions for special noncompetitive appointments that accommodate hiring veterans.

This includes Federal agencies using hiring authorities, established by the Veterans Preference Act, to hire people with disabilities and sometimes offering preference to veterans under conditions of the law. **If a veteran is looking for a job, these hiring authorities may be able to help them with placement assistance in roles that give preference to disabled veteran appointments:**

- **Veterans’ Recruitment Appointment (VRA):** This program allows Federal agency appointment preference of qualified disabled veterans into non-competitive positions.
- **Veterans Employment Opportunity Act (VEOA):** Offers preference to candidates who can fill competitive service conditions if they are considered “status applicants.” According to OPM.gov, status applicants are those who “are current or former Federal civilian employees who hold or held non-temporary appointments in the competitive service, not the excepted service.”
- **Schedule-A Appointment Authority:** This is not veteran-specific but can benefit veterans with conditions like traumatic brain injury or PTSD as it is designed to provide preference to people with severe mental and intellectual disabilities.

What Impact Does The EEOC Have In Providing Veterans Protection?

When taking action against the private, state, or local government employers, you must file a formal discrimination claim with the EEOC. The allegation must be submitted to the local EEOC office within 180 days from the date of the suspected violation. And it needs to be either delivered by mail or in person. If the state or local anti-discrimination laws also cover charges associated with the filing, the 180-day filing period will be extended to 300 days for the anti-discrimination review.

EEOC will send you and your employer a copy of the charging paperwork and may ask you to provide responses and to support information for fact-checking. Before the formal investigation, EEOC can choose to enroll the charge into a mediation plan instead. Mediation is free, confidential, and voluntary. This process will only occur if both parties are amicable to it but can sometimes yield the most positive and least costly outcome for all involved.

The EEOC investigates charges if mediation is unsuccessful or if a charge isn’t selected for mediation. If “reasonable cause” to suspect discrimination is found, the EEOC first seeks to work with the employer to solve the issue of discrimination.

If this is unsuccessful and the charge cannot resolve in the manner, the EEOC takes the employer to court for the charge of veteran discrimination. If the EEOC finds no discrimination or resolution failures result in the EEOC backing out of the charge, you will be given a “right to sue” notice that gives you 90 days to file an action in court. You can also request a right to sue if the EEOC has had the case investigation for 180 days. When the request is granted, you will have 90 days to file.

If the claim is against a Federal agency, you can call the office responsible for the agency’s EEO complaint plan to get in direct contact with an EEO consultant. Generally, you must contact an EEO consultant within 45 days from the date of the issue of discrimination. In most cases, EEO consultants will provide you with the option of participating in EEO consultation or attending mediation to resolve the dispute with the agency.



For cases that can't be settled by mediation, a formal complaint can be filed through the EEO office. This must occur within 15 days from the date you receive instructions from an EEO counselor in writing. A review of applicable claims will occur, and the agency has 180 days from the date of the claim to see through an investigation. An investigation leads to one of two scenarios, a judicial hearing or decision directly from the EEOC on whether discrimination occurred.

Resources: Discrimination Against Veterans With Disabilities

The following agencies, tools and resources are designed to protect and assist veterans with disabilities against discrimination and prejudice in the workplace:

U.S. Equal Employment Opportunity Commission (EEOC)

The EEOC is an anti-discrimination agency designed to protect employees against discrimination.

- Website: www.eeoc.gov (<http://www.eeoc.gov/>).
- Phone: 1-800-669-4000

U.S. Department of Justice (DOJ)

The DOJ is part of the federal government's executive branch responsible for overseeing that justice is served through the legal system, and the administrative arm of the ADA.

- Website: www.ada.gov (<http://www.ada.gov/>).
- Phone: 1-800-514-0301

U.S. Department of Labor (DOL)

The US DOL provides information on how to create a USERRA claim.

- Website: www.dol.gov/vets (<http://www.dol.gov/vets>).
- Phone: 1-866-4-USA-DOL

DOL, Office of Federal Contract Compliance Programs (OFCCP)

This division of the department of labor is responsible for compliance with contractor affirmative action requirements for veterans set up by VEVRAA.

- Website: <http://www.dol.gov/ofccp/regs/statutes/4212.htm> (<http://www.dol.gov/ofccp/regs/statutes/4212.htm>)
- Phone: 1-800-397-6251

National Resource Directory (NRD)

Department of Defense (DoD), Department of Veterans Affairs (VA), and DOL partner to offer job resources for veterans.

- Website: www.nationalresourcedirectory.gov (<http://www.nationalresourcedirectory.gov/>).
- Phone: 1-800-342-9647

DOL One Stop Career Centers

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The Department of Labor Career Centers help disabled veterans get coaching and find work.

- Website: www.careeronestop.org (<http://www.careeronestop.org/>).
- Phone: 1-877-348-0502

Employer Assistance and Recruiting Network (EARN)

This organization is another resource for disabled veterans looking for work to get picked for recruiting opportunities.

- Website: [www.AskEARN.org](http://www.askearn.org) (<http://www.askearn.org/>)
- Phone: 1-855-Ask-EARN (1-855-275-3276)

Occupational Information Network (O*NET) Online

This is a data resource for job seekers that provides information on occupations.

- Website: www.onetcenter.org (<http://www.onetcenter.org/>)

U.S. Department of Veterans Affairs

The US Department of Veteran Affairs, or VA, is the government agency that manages, monitors and oversees veteran programs, benefits and treatment in the United States.

- Website: www.va.gov (<http://www.va.gov/>).
- Phone: 1-800-827-1000

U.S. Office of Personnel Management

Through the Office of Personnel Management veterans can link up with federal positions under the "Feds Hire Vets" program.

- Website: www.fedshirevets.gov (<http://www.fedshirevets.gov/>).
- Phone: 1-202-606-5090

EEOC Enforcement Guidance: Reasonable Accommodation Information

This resource helps employers and disabled veterans understand situations of reasonable accommodation and undue hardship.

Website: www.eeoc.gov/policy/docs/accommodation.html (<http://www.eeoc.gov/policy/docs/accommodation.html>)

The ADA And Veteran Protection

While the ADA is not veteran-specific legislation, when it comes to injured veterans with disabilities, it's an important piece of employment law that helps to protect their rights. Between the ADA, VEVRAA, USERRA, and other laws and agencies discussed in this article, there are many opportunities for veterans to seek recourse for discrimination, including filing a claim, seeking mediation, and taking legal action. The important thing is to know your rights.

Contact A Veteran Discrimination Lawyer Today



If you or a family member are a veteran who has been a victim of veteran discrimination, you need a lawyer working for you to ensure you receive the help, support, services, and lifestyle that you are entitled to. You sacrificed for your country, and now it's time for your country's legal system to work to protect your rights. If you served in the military and are being discriminated against, Florin | Roebig has a live person waiting to talk to you. [Call us today \(tel:8669380217\)](tel:8669380217) to schedule a confidential and free case evaluation.

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