



# MERIT SYSTEMS PROTECTION BOARD FORM 185-7 USERRA CLAIMS OR USERRA APPEAL

Complete this form and attach it to MSPB Form 185-1 in either of the following situations:

- You are raising a claim—in connection with an appeal of an agency action or decision for which you have completed MSPB Form 185-2 or MSPB Form 185-3—that the agency denied you an employment or reemployment right or benefit guaranteed by the Uniformed Services Employment and Reemployment Rights Act (USERRA), other than rights related to the Thrift Savings Plan for Federal employees.
- You are filing a USERRA appeal ONLY. Such an appeal alleges that the agency denied you an employment or reemployment right or benefit guaranteed by USERRA, other than rights related to the Thrift Savings Plan for Federal employees, but there is NO associated personnel action that is directly appealable to the Board under a law, rule, or regulation.

In general, USERRA guarantees certain reemployment rights following a period of service in a uniformed service. In addition, USERRA prohibits discrimination based on your service—or application or obligation for service—in a uniformed service. USERRA also prohibits reprisal for exercising your rights under that law or for assisting someone else in exercising such a right. See 38 U.S.C. Chapter 43 and 5 CFR Part 1208, Subparts A and B.

If this is a USERRA appeal, your appeal will consist ONLY of a completed MSPB Form 185-1 and MSPB Form 185-7. (You may also attach MSPB Form 185-9 if you are designating a representative.) In a USERRA appeal, the Board may consider ONLY the claim that the agency denied you an employment or reemployment right or benefit guaranteed by USERRA. It may not consider the merits of an agency action or decision associated with your claim of a USERRA violation, nor may it consider any claims other than the claim of a USERRA violation.

Please type or print legibly.

OMB No. 3124-0009

Please submit only the attachments requested in this form at this time. You will be afforded the opportunity to submit detailed evidence in support of your appeal later in the proceeding.

Name (last, first, middle initial)

1. Have you served in a uniformed service?  Yes  No

If "Yes," which service?

Enter the dates in which you performed this service. From (month/year) To (month/year)

2. If your answer to question 1 is "No," explain how you are covered by USERRA. (Examples include: You have applied to serve in a uniformed service. You have an obligation for uniformed service. You have assisted someone else in asserting a right under USERRA.)

3. What right or benefit guaranteed by USERRA was denied to you by the agency? Be as specific as possible, and, if you can, cite the provision(s) of 38 U.S.C. Chapter 43 that you claim the agency violated.



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## ANSWER QUESTIONS 4 AND 5 ONLY IF YOU ARE FILING A USERRA APPEAL

(You are filing a USERRA appeal if there is NO associated personnel action that is directly appealable to the Board under a law, rule, or regulation).

4. Describe any agency action or decision associated with your claim of a USERRA violation. (Attach any proposal letter, decision letter, and/or SF-50 that you received in connection with this action or decision.)

5. What action would you like the Board to take in this case (i.e., what remedy are you asking for)?

Answer questions 6 through 9 ONLY if you filed a USERRA complaint on this same matter with the Secretary of Labor. You are NOT required to file a USERRA complaint with the Secretary of Labor before filing with the Board. However, if you do file first with the Secretary of Labor, you cannot appeal to the Board until after you exhaust the procedures of the Department of Labor.

6. On what date (*month, day, year*) did you file your USERRA complaint on this matter with the Secretary of Labor?

Attach a copy of your complaint to the Secretary of Labor.

7. Has the Secretary of Labor notified you that your USERRA complaint could not be resolved?

Yes (*Attach a copy*)     No

If "Yes," on what date did you receive the Secretary's notice (*month, day, year*)?

8. If you filed a USERRA complaint with the Secretary of Labor and the Secretary notified you that your complaint could not be resolved, was your complaint referred to the Office of Special Counsel?

Yes                       No

9. If your USERRA complaint was referred to the Office of Special Counsel, is that office representing you before the Board?

Yes                       No

If the Office of Special Counsel IS representing you, **complete and attach MSPB Form 185-9, Designation of Representative Form.**

If the Office of Special Counsel IS NOT representing you, **attach a copy of the OSC letter declining representation.**