

# Service Member Rights: Intelligence Community Guidance Could Better Address Reemployment Protections

GAO-26-108133  
Q&A Report to Congressional Committees  
May 21, 2026

## Why This Matters

The Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA), prohibits employers from discriminating and retaliating against veterans and service members because of their military status or service. Specifically, USERRA protects the employment and reemployment rights of service members who temporarily leave government or private sector civilian jobs to perform military or other uniformed service.

There are 18 intelligence community (IC) elements in the federal government. Of these, seven have statutory requirements under USERRA that are distinct from those of other federal agencies. Congress intended to exempt these seven IC elements from external and judicial review of their personnel practices and procedures, to include reemploying service members, due to national security concerns. These statutory requirements are delineated in USERRA under sections 4315 and 4325 of title 38, U.S. Code and include statutory provisions that apply to the Office of the Director of National Intelligence (ODNI), Central Intelligence Agency (CIA), Defense Intelligence Agency (DIA), National Geospatial-Intelligence Agency (NGA), National Reconnaissance Office (NRO), National Security Agency (NSA), and Federal Bureau of Investigation (FBI).

As an example, one of the statutory provisions requires these seven IC elements to allow service members to submit claims alleging violations of USERRA protections to the Inspector General of their agency instead of seeking external and judicial review that other federal agencies and IC elements allow. Although USERRA imposes statutory provisions such as this, it also requires that the seven IC elements' procedures for reemploying service members afford rights that are similar to those that apply to other federal agencies.

Section 221 of the Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act includes a provision for us to examine how the IC protects the rights afforded to service members under USERRA (Pub. L. No. 118-210, § 221(g) (2025)). This report describes the guidance that IC elements have implemented to provide protections to service members under USERRA. It also examines the extent to which the seven IC elements include the five provisions that they are statutorily required to include in their guidance.

## Key Takeaways

- The 18 IC elements have implemented a range of guidance through various sources—including instructions, directives, manuals, regulations, and guides—to provide protections to service members under USERRA.
- While seven IC elements have statutory requirements to provide reemployment protections to service members under sections 4315 and 4325 of title 38, U.S. Code, including five provisions that are statutorily required to be included in their guidance, we found that four of these elements—DIA,

NRO, NSA, and FBI—have not included all five of these provisions in their guidance.

- We recommend that these four IC elements include within their guidance all five of the provisions that are statutorily required. Each of these elements concurs with this recommendation.
- The seven IC elements have reemployed all service members that went on military duty for 30 days or more from fiscal years 2019 through 2025, according to data reported by officials from these elements.
- Service members from the seven IC elements submitted a total of 47 claims for alleged violations of reemployment rights from fiscal years 2019 through 2025, but none were resolved in favor of the service member, according to data reported by officials from these elements' respective Offices of Inspectors General.

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### **What are USERRA protections for service members?**

USERRA prohibits employers, including the 18 IC elements, from denying employment, reemployment, promotion, or any benefit of employment to a person based on past, present, or future military service.<sup>1</sup> USERRA also provides that service members returning to civilian jobs must be promptly reemployed in the position that they would have attained had they not been absent for military service, with the same seniority, status, and pay.<sup>2</sup> Therefore, for the purposes of this report, the term “reemployment” means reinstating the service member in a comparable civilian position within the same element upon returning from military service.

Service members working for government or private employers may take leave from their jobs for various service-related reasons. For example, members of the Reserve Components of the armed forces may take leave from civilian employment if called to duty and reenter the civilian workforce once their service has ended.<sup>3</sup>

USERRA establishes that the cumulative length of time that a service member may be absent from work for military duty and retain reemployment rights is 5 years.<sup>4</sup> However, there are exceptions to the 5-year limit, such as for periodic National Guard and Reserve training duty. USERRA establishes that reemployment protection does not depend on timing, frequency, duration, or nature of a service member's service as long as the basic eligibility criteria are met. For example, USERRA protection is terminated if the service member is separated with a less than honorable discharge, such as a bad conduct discharge.

If an employer does not provide these rights, service members have various paths of recourse that include submitting claims of alleged noncompliance with USERRA for investigation and enforcement.<sup>5</sup>

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### **What guidance have the IC elements implemented to provide USERRA protections to service members?**

The 18 IC elements have implemented a range of guidance through various sources—including instructions, directives, manuals, regulations, and guides—to provide protections to service members under USERRA. Appendix I describes in greater detail the range of guidance these IC elements have implemented.

## Which IC elements have statutory requirements that are distinct from those of other federal agencies under USERRA?

## IC elements with statutory requirements that are distinct under USERRA

While all 18 IC elements are required to provide employment and reemployment protections to service members under USERRA, the seven IC elements shown in figure 1 have statutory requirements to provide reemployment protections that are distinct from those of other federal agencies.

**Figure 1: The Seven Intelligence Community Elements That Are Statutorily Required to Provide Reemployment Protections That Are Distinct Under USERRA, as of February 2026**



Source: GAO analysis of the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA), and section 2302(a)(2)(C)(ii) of title 5, United States Code. | GAO-26-108133

## Statutory requirements to provide reemployment protections that are distinct under USERRA

Sections 4315 and 4325 of title 38, U.S. Code, include statutory requirements that are distinct under USERRA that the seven IC elements—ODNI, CIA, DIA, NGA, NRO, NSA, and FBI—must follow to prescribe their own procedures to protect the reemployment rights of service members.<sup>6</sup> While these seven IC elements are permitted to prescribe their own procedures, such procedures must be similar, to the maximum extent practicable, to the reemployment provisions for other federal agencies. The following five IC reemployment provisions are statutorily required to be included in the guidance of these seven IC elements, according to sections 4315 and 4325 of title 38, U.S. Code:

1. Have procedures for ensuring reemployment rights;
2. Designate an official to determine whether reemployment is impossible or unreasonable;
3. Have the designated official notify the service member and the Director of the Office of Personnel Management upon determining reemployment is impossible or unreasonable;
4. Allow service members to submit claims alleging violations of USERRA protections to the Inspector General of the agency; and
5. Have procedures for the Inspector General to investigate and resolve alleged violations of USERRA protections.

**To what extent have the seven IC elements included IC reemployment provisions in guidance?**

We found that the seven IC elements that have statutory requirements to provide reemployment protections to service members that are distinct from those of other federal agencies have specific guidance to provide such protections. However, we found that some of these elements risk not meeting the intent of sections 4315 and 4325 of title 38, U.S. Code, as only three of the seven elements—ODNI, CIA, and NGA—have included all five IC reemployment provisions that are statutorily required to be included in their guidance, as shown below in table 1. In contrast, we found that the other four elements, DIA, NRO, NSA, and FBI, did not include all five of the IC reemployment provisions that are statutorily required to be included in their guidance, as reflected in table 1 and the discussion that follows.

**Table 1: Extent Seven IC Elements Include Statutorily Required Reemployment Provisions in Their Guidance, as of February 2026**

IC reemployment provisions statutorily required to be in guidance	Extent IC reemployment provisions are included in guidance <sup>a</sup>						
	ODNI <sup>b</sup>	CIA <sup>c</sup>	DIA <sup>d</sup>	NGA <sup>e</sup>	NRO <sup>f</sup>	NSA <sup>g</sup>	FBI <sup>h</sup>
1. The head of each IC agency has prescribed procedures for ensuring that the rights under USERRA apply to the employees of these agencies.	●	●	●	●	●	●	●
2. The procedures designate an official at each agency who shall determine whether the reemployment of a service member by the agency is impossible or unreasonable.	●	●	◐	●	○	◐	◐
3. The designated official notifies the service member and the Director of the Office of Personnel Management upon determining reemployment is impossible or unreasonable.	●	●	◐	●	○	◐	◐
4. Service members may submit a claim relating to an alleged violation of their USERRA protections to the inspector general of the IC agency that is the subject of the allegation.	●	●	●	●	○	●	●
5. The inspector general investigates and resolves such allegations pursuant to procedures prescribed by the head of the IC agency.	●	●	◐	●	○	●	●

Legend: ● = Included; ◐ = Partially included; ○ = Not included

Source: GAO analysis of intelligence community (IC) elements' guidance and the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA). I GAO-26-108133

Note: IC elements within the Department of Defense (DOD) (i.e., Defense Intelligence Agency, National Geospatial-Intelligence Agency, National Reconnaissance Office, and National Security Agency) follow DOD Instruction 1205.12 in addition to their element-specific guidance. DOD Instruction 1205.12, *Civilian Employment and Reemployment Rights for Service Members, Former Service Members, and Applicants of the Military Services* (Nov. 15, 2024).

<sup>a</sup>Pub. L. No. 103-353 (1994) (codified as amended at 38 U.S.C. §§ 4301-4335).

<sup>b</sup>Office of the Director of National Intelligence (ODNI), Office of the Director of National Intelligence Instruction 77.01, *Employment and Reemployment of Members of the Uniformed Services* (Apr. 4, 2025).

<sup>c</sup>Central Intelligence Agency (CIA), Agency Regulation 3-18, *Employment and Reemployment of Members in the Uniformed Services* (Apr. 22, 2008).

<sup>d</sup>Defense Intelligence Agency (DIA), Administrative Instruction 05-18, *Uniformed Services Employment and Reemployment Rights* (Aug. 14, 2018).

<sup>e</sup>National Geospatial-Intelligence Agency (NGA), National Geospatial-Intelligence Agency Instruction 1406.1, *Uniformed Services Employment and Reemployment Rights* (Aug. 19, 2025).

<sup>f</sup>National Reconnaissance Office (NRO), Directive 40-5, *Employment and Placement*, version 5.0 (Feb. 10, 2025).

<sup>g</sup>National Security Agency (NSA), NSA/CSS Policy Manual 4-13, *Personnel Administration, Chapter 2, Uniformed Services Employment and Reemployment Rights Act* (June 18, 2020).

<sup>h</sup>Federal Bureau of Investigation (FBI), *Military Program Policy Guide 1171PG* (Nov. 4, 2022).

## DIA

DIA partially included three of five of the IC reemployment provisions that are statutorily required to be included in DIA Administrative Instruction 05-18. DIA officials stated this information is not currently included in their guidance but is implied within the authorities of the senior leader roles of the Office of Human Resources. The Director of the Office of Human Resources is the designated official who would determine whether reemployment of a service member is impossible or unreasonable, according to DIA officials. In April 2026, DIA officials told us they plan to issue updated guidance by January 2027 to include the designated official who determines whether reemployment is impossible or unreasonable and notifies the service member and the Director of the Office of Personnel Management upon making such a determination.

Additionally, DIA's Office of the Inspector General is required by statute to investigate the claims it receives, according to DIA officials. DIA also plans to include in its updated guidance the procedures for investigating and resolving claims as statutorily required by USERRA, according to these same officials.

## NRO

NRO did not include four of the five IC reemployment provisions in NRO Directive 40-5. According to NRO officials, the NRO Director of the Office of Human Resources is the designated official to determine whether reemployment is impossible or unreasonable and is to notify the service member and the Director of the Office of Personnel Management upon making such a determination.

However, we found that NRO Directive 40-5, which was updated in 2025, does not explicitly include the roles and functions of the designated official, the rights of service members in submitting a claim relating to an alleged violation of their reemployment protections, or the procedures for investigating and resolving such claims as statutorily required under USERRA. In April 2026, NRO officials stated they will update agency policy to include all five IC reemployment provisions.

## NSA

NSA partially included two of five of the IC reemployment provisions that are statutorily required to be included in NSA/CSS Policy Manual 4-13. According to NSA officials, the Chief of Talent Management is the designated official who would determine whether reemployment of a service member is impossible or unreasonable. Additionally, this designated official is also ultimately responsible for notifying the service member and the Director of the Office of Personnel Management of the determination. However, we found that these roles and functions are not explicitly included in NSA/CSS Policy Manual 4-13, as statutorily required under USERRA. In April 2026, NSA acknowledged the need to update its guidance to comply with sections 4315 and 4325 of title 38, U.S. Code by including all five IC reemployment provisions.

## FBI

FBI partially included two of five of the IC reemployment provisions that are statutorily required to be included in its *Military Program Policy Guide*. FBI officials stated the Human Resources Officer is the designated official within the

FBI who would determine whether reemployment of a service member is impossible or unreasonable. These officials acknowledged this information is not currently included in their guide or elsewhere due to an oversight. According to these officials, FBI plans to update its *Military Program Policy Guide* to identify the designated official to determine whether reemployment of a service member is impossible or unreasonable and to notify the service member and the Director of the Office of Personnel Management upon making such a determination. However, FBI officials did not specify when FBI plans to update its current guidance.

In summary, guidance implemented by DIA, NRO, NSA, and FBI does not include all five of the IC reemployment provisions that are statutorily required to be included in their guidance. DIA and FBI officials acknowledged the need to update their guidance to include these provisions, as did NRO and NSA via comments in response to our recommendations. Officials from these elements also told us they had not experienced challenges implementing their respective guidance to provide reemployment protections.

More clearly incorporating the requirements of sections 4315 and 4325 of title 38, U.S. Code, could help these four elements stave off potential issues, such as by ensuring service members are not being discriminated against because of their military service. Providing more specific guidance would afford these IC elements greater clarity on roles, responsibilities, rights, and procedures for ensuring reemployment protections. By including in their guidance all five of the IC reemployment provisions that are statutorily required, such as designating an official to determine whether reemployment of a service member is impossible or unreasonable, DIA, NRO, NSA, and FBI can better ensure service members are informed of their rights under USERRA.

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## How many times have service members from the seven IC elements been reemployed or submitted claims for alleged violations of reemployment rights from fiscal years 2019 through 2025?

### Times service members reemployed

ODNI, CIA, DIA, NGA, NRO, NSA, and FBI have reemployed all service members that went on military duty for 30 days or more—a total of 2,371 times—from fiscal years 2019 through 2025, according to data reported by officials from these elements.<sup>7</sup>

### Claims submitted for alleged reemployment violations

Service members from these seven IC elements submitted a total of 47 claims for alleged violations of reemployment rights (e.g., pay, promotion, military leave benefit) during the same time frame, according to data reported by officials from these elements' respective Offices of Inspectors General. Of the 47 total claims, none were resolved in favor of the service member, according to data reported by these same officials. For example, a report of investigation from the Office of the Inspector General of the IC identified that, in 2021, a service member submitted a claim against the employer, ODNI, for allegedly violating their USERRA rights. As a reservist in the military, this service member's military service required absence from ODNI for about 2 years. The claim alleged, among other things, that ODNI failed to

- provide adequate time and the same guidance provided to other ODNI employees to prepare a competitive promotion package, and
- properly reemploy the service member in a position of like status within ODNI upon returning from military service.

The Office of the Inspector General of the IC investigated this service member's claim in 2021 and concluded that none of the allegations were substantiated. However, the Office of the Inspector General of the IC made five recommendations to ODNI that were designed to mitigate management

deficiencies related to ODNI's implementation of USERRA, including updating guidance to provide protections to service members. As of April 2025, the Office of the Inspector General of the IC had determined that ODNI took actions that were sufficient to address all five recommendations, according to officials from the Office of the Inspector General of the IC.

Table 2 shows the number of claims submitted by and resolved in favor of service members for alleged reemployment violations from fiscal years 2019 through 2025, as reported by the seven IC elements' respective Offices of the Inspectors General.

**Table 2: Fiscal Year 2019-2025 Claims Submitted by and Resolved in Favor of Service Members for Alleged Reemployment Violations, as Reported by the IC Elements' OIGs**

Claims submitted by service members	ODNI	CIA	DIA	NGA	NRO	NSA	FBI	Total
Number submitted	1	8	12	7	0	19	0	47
Number resolved in favor of service member	0	0	0	0	0	0	0	0

Source: GAO analysis of data reported by the respective Offices of the Inspectors General (OIG) of the Office of the Director of National Intelligence (ODNI), Central Intelligence Agency (CIA), Defense Intelligence Agency (DIA), National Geospatial-Intelligence Agency (NGA), National Reconnaissance Office (NRO), National Security Agency (NSA), and Federal Bureau of Investigation (FBI). ODNI's respective OIG is the OIG of the Intelligence Community (IC) and FBI's is the Department of Justice OIG. | GAO-26-108133

## Conclusions

USERRA prohibits employers from discriminating and retaliating against veterans and service members because of their military status or service. While IC elements have implemented a range of guidance to provide protections to service members under USERRA, four IC elements—DIA, NRO, NSA, and FBI—could enhance the protection of these rights by including all five of the IC reemployment provisions that are statutorily required to be in their guidance. In doing so, these IC elements can better ensure they fully preserve the reemployment rights of service members under USERRA.

## Recommendations for Executive Action

We are making four recommendations—three to the Department of Defense and one to the Department of Justice. Specifically:

The Secretary of Defense should ensure that the Director of the DIA includes within DIA's guidance all five of the IC reemployment provisions, as required by sections 4315 and 4325 of title 38, U.S. Code. (Recommendation 1)

The Secretary of Defense should ensure that the Director of the NRO includes within NRO's guidance all five of the IC reemployment provisions as required by sections 4315 and 4325 of title 38, U.S. Code. (Recommendation 2)

The Secretary of Defense should ensure that the Director of the NSA includes within NSA's guidance all five of the IC reemployment provisions as required by sections 4315 and 4325 of title 38, U.S. Code. (Recommendation 3)

The Attorney General should ensure that the Director of the FBI includes within FBI's guidance all five of the IC reemployment provisions as required by sections 4315 and 4325 of title 38, U.S. Code. (Recommendation 4)

## Agency Comments

We provided a draft of this report to the Departments of Defense, Energy, Homeland Security, Justice, State, and the Treasury; the Office of the Director of National Intelligence; the Central Intelligence Agency; and the Office of Personnel Management for review and comment.

In its written comments, reproduced in appendix II, the Department of Defense concurred with our recommendations to DIA, NRO, and NSA, and described

actions these elements have taken or plan to take to address them. For example, DIA concurred with our recommendation and has updated its guidance, which DIA officials told us they plan to issue by January 2027. The Department of Justice concurred via email with our recommendation to the FBI. The Department of Defense and the Department of Justice provided technical comments, which we incorporated into the report as appropriate.

## How GAO Did This Study

To describe the guidance the IC elements have implemented to provide protections to service members under USERRA, we identified and reviewed key department- and element-specific guidance. We also interviewed or collected written responses from officials from the Department of Defense's Office of the Under Secretary of Defense for Intelligence and Security, and the Office of the Under Secretary of Defense for Personnel and Readiness; as well as the Office of Personnel Management, the Department of Energy, the Department of Homeland Security, the Department of Justice, the Department of State, the Department of the Treasury, and the 18 IC elements and, as necessary, their respective Offices of Inspectors General, about their efforts to provide USERRA protections through element-specific guidance.

To evaluate the extent the guidance implemented by the seven IC elements that have statutory requirements to provide reemployment protections that are distinct from other federal agencies under USERRA—ODNI, CIA, DIA, NGA, NRO, NSA, and FBI—include five IC reemployment provisions, we used a scorecard methodology. Specifically, we conducted qualitative, content, and legal analyses of these elements' guidance and assessed it against five IC reemployment provisions that are statutorily required to be included in their guidance.<sup>8</sup> To assess the extent to which ODNI, CIA, DIA, NGA, NRO, NSA, and FBI's guidance included the five IC reemployment provisions, we used the following scoring scheme: (1) Included – the IC element's guidance includes all parts of the category and has sufficient specificity and detail; (2) Partially included – the IC element's guidance includes at least one of the category's parts but fewer than all; and (3) Not included – the IC element's guidance does not explicitly include any parts of the category and any implicit references to the category are either too vague or general to be useful.

We also conducted interviews with or collected written responses from officials from these elements and, as necessary, their respective Offices of Inspectors General about their guidance includes the five IC reemployment provisions and data related to implementation of USERRA protections, such as the number of times that service members were reemployed and the number of claims submitted by and resolved in favor of service members for alleged violations of reemployment rights from fiscal years 2019 through 2025. While we did not independently assess the reliability of data systems used to produce data reported by officials from the seven IC elements and respective Offices of the Inspectors General, we interviewed or collected written responses from knowledgeable officials from these elements and respective offices about the data, and determined the data were sufficiently reliable for the purposes of describing the number of instances as well as selecting illustrative examples of reemployment or related claims.

We conducted this performance audit from February 2025 to May 2026 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## List of Addressees

The Honorable Jerry Moran  
Chairman  
The Honorable Richard Blumenthal  
Ranking Member  
Committee on Veterans' Affairs  
United States Senate

The Honorable Tom Cotton  
Chairman  
The Honorable Mark Warner  
Vice Chairman  
Select Committee on Intelligence  
United States Senate

The Honorable Mike Bost  
Chairman  
The Honorable Mark Takano  
Ranking Member  
Committee on Veterans' Affairs  
House of Representatives

The Honorable Rick Crawford  
Chairman  
The Honorable Jim Himes  
Ranking Member  
Permanent Select Committee on Intelligence  
House of Representatives

We are sending copies of this report to the appropriate congressional committees; the Secretary of Defense; the Directors of the DIA, NGA, NRO, and NSA; the Secretaries of the Army and the Air Force; the Acting Secretary of the Navy; the Commandant of the Marine Corps; the Chief of Space Operations, U.S. Space Force; the Director of National Intelligence; the Director of the CIA; the Secretary of Energy; the Director of the Office of Intelligence and Counterintelligence; the Secretary of Homeland Security; the Under Secretary of the Office of Intelligence and Analysis; the Commandant of the U.S. Coast Guard; the Acting Attorney General of the United States; the Director of the FBI; the Administrator of the Drug Enforcement Administration; the Secretary of State; the Assistant Secretary of the Bureau of Intelligence and Research; the Secretary of the Treasury; the Assistant Secretary for Intelligence and Analysis; the Director of the Office of Personnel Management; and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

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## GAO Contact Information

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## Appendix I: Range of Guidance Implemented by 18 IC Elements to Provide Protections to Service Members

There are 18 intelligence community (IC) elements, and these elements have implemented a range of guidance through various sources to provide protections to service members under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA), as described in tables 3 and 4 below.

Specifically, all nine Department of Defense (DOD) IC elements follow DOD Instruction 1205.12 to provide protections to service members under USERRA.<sup>9</sup> In addition, most of these elements have implemented additional element-specific guidance to provide such protections to service members, as shown in table 3 below.

**Table 3: Element-Specific Guidance Implemented by Nine DOD IC Elements to Provide Protections to Service Members Under USERRA, as of February 2026**

Department	DOD IC element	Title of element-specific guidance	Current publication year
DOD	Defense Intelligence Agency (DIA)	DIA Administrative Instruction 05-18, <i>Uniformed Services Employment and Reemployment Rights</i>	2018
DOD	National Geospatial-Intelligence Agency (NGA)	NGA Instruction 1406.1, <i>Uniformed Services Employment and Reemployment Rights</i>	2025
DOD	National Reconnaissance Office (NRO)	NRO Directive 40-5, <i>Employment and Placement</i> , version 5.0	2025
DOD	National Security Agency (NSA)	NSA/CSS Policy Manual 4-13, <i>Personnel Administration, Chapter 2, Uniformed Services Employment and Reemployment Rights Act</i>	2020
DOD	Army Intelligence and Security	Army Regulation 690-300, <i>Civilian Personnel Employment</i>	2025
DOD	Naval Intelligence Activity	Secretary of the Navy Memorandum, <i>Reemployment Protections for Navy and Marine Corps Military Personnel</i>	2021
DOD	Marine Corps Intelligence Activity	Secretary of the Navy Memorandum, <i>Reemployment Protections for Navy and Marine Corps Military Personnel</i>	2021
DOD	Air Force Intelligence	No additional element-specific guidance	Not applicable
DOD	Space Force Intelligence	No additional element-specific guidance	Not applicable

Source: GAO description of guidance implemented by intelligence community (IC) elements that are part of the Department of Defense (DOD) to provide protections to service members under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA). | GAO-26-108133

Moreover, all nine non-DOD IC elements have implemented department- or element-specific guidance to provide protections to service members under USERRA, as shown in table 4 below.<sup>10</sup>

**Table 4: Department- or Element-Specific Guidance Implemented by Nine Non-DOD IC Elements to Provide Protections to Service Members Under USERRA, as of February 2026**

Department	Non-DOD IC element	Title of department- or element-specific guidance	Current publication year
N/A	Office of the Director of National Intelligence (ODNI)	ODNI Instruction 77.01, <i>Employment and Reemployment of Members of the Uniformed Services</i>	2025
N/A	Central Intelligence Agency (CIA)	CIA Agency Regulation 3-18, <i>Employment and Reemployment of Members in the Uniformed Services</i>	2008
Department of Energy (DOE)	Office of Intelligence and Counterintelligence	<i>DOE Management Checklist for Employees Who Perform Reserve or National Guard Active Military Duty<sup>a</sup></i>	2022
Department of Homeland Security (DHS)	Office of Intelligence and Analysis	DHS Directive 250-08, <i>Veteran's Employment</i>	2014
DHS	U.S. Coast Guard Intelligence	DHS Directive 250-08, <i>Veteran's Employment</i>	2014
Department of Justice (DOJ)	Federal Bureau of Investigation	<i>Military Program Policy Guide 1171PG</i>	2022
DOJ	Drug Enforcement Administration (DEA), Office of National Security Intelligence	DEA Personnel Manual 2353, <i>Employment, Active Military Benefits and Entitlements</i>	2015
Department of State	Bureau of Intelligence and Research	3 FAM 3440, <i>Military Leave<sup>b</sup></i>	2020
Department of the Treasury	Office of Intelligence and Analysis	Treasury Memorandum, <i>Uniformed Services Employment and Reemployment Rights Act (USERRA) Guidance</i>	2013

Source: GAO description of department- or element-specific guidance implemented by intelligence community (IC) elements that are not part of the Department of Defense (DOD) to provide protections to service members under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA). | GAO-26-108133

<sup>a</sup>DOE Office of Intelligence and Counterintelligence officials stated they have also implemented another department checklist entitled, *Checklist for Members of the Military Who Return to Federal Civilian Service After More than 30 Days of Active Duty*, issued in 2025, to provide reemployment protections to service members under USERRA.

<sup>b</sup>Department of State Bureau of Intelligence and Research officials stated they have also implemented 13 FAM 301.5, *Mandatory Training Linked to Specific Assignments/Position*, issued in 2022, to provide training guidance on USERRA.

## Appendix II: Comments from the Department of Defense



INTELLIGENCE  
AND SECURITY

Ms. Alissa Czyz  
Director, Defense Capabilities and Management  
U.S. Government Accountability Office  
441 G Street, NW  
Washington DC 20548

Dear Ms. Czyz,

This letter serves as the Department of War's (DoW) response to the Government Accountability Office (GAO) Draft Report GAO-26-108133, titled "*Service Member Rights: Intelligence Community (IC) Guidance Could Better Address Reemployment Protections.*" Dated February 12, 2026 (GAO Code 108133).

The DoW Intelligence Community (IC) Components are committed to fully supporting employees who serve in the uniformed services by upholding the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. chapter 43. In alignment with the GAO recommendations, the statutory requirements for these provisions will be integrated in each Component's policy to guarantee the protection of job rights and benefits for veterans and Reserve Component members.

After a comprehensive examination of the GAO draft report, I recommend that the reference to "Air Force Intelligence, Surveillance and Reconnaissance Enterprise" be removed and replaced with "Air Force Intelligence" in all official documentation. Additionally, a sensitivity review was conducted and there were no other comments or concerns identified. The DoW IC Components have confirmed receipt of the report and will update their policies to align with the identified requirements.

Enclosed is the DoW's formal response to the subject report. For further information, please contact Stephanie Edmundson in the Under Secretary of War for Intelligence and Security, Human Capital Management Office, who may be reached at (703) 692-3592 or [stephanie.t.edmundson.civ@mail.mil](mailto:stephanie.t.edmundson.civ@mail.mil).

A handwritten signature in black ink that reads "Mary C. Byers".

Mary C. Byers, PhD  
Director, Human Capital Management Office

**GAO Report Dated February 12, 2026**

**GAO-26-108133SU (GAO CODE 108133)**

**"SERVICE MEMBER RIGHTS: INTELLIGENCE COMMUNITY GUIDANCE COULD  
BETTER ADDRESS REEMPLOYMENT PROTECTIONS"**

**DEPARTMENT OF WAR COMMENTS  
ON THE GAO RECOMMENDATIONS**

**RECOMMENDATION 1:** The GAO recommends that the Secretary of War (SW) ensure the Director of the Defense Intelligence Agency (DIA) includes within DIA's guidance all five of the Intelligence Community (IC) reemployment provisions, as required sections 4315 and 4325 of title 38, U.S. Code.

**DoW RESPONSE:** DIA concurs with the GAO recommendation and updated guidance to incorporate all five IC reemployment provisions required under sections 4315 and 4325 of title 38, U.S. Code.

**RECOMMENDATION 2:** The GAO recommends that the SW ensure that the Director of the National Reconnaissance Office (NRO) includes within NRO's guidance all five of the IC reemployment provisions, as required sections 4315 and 4325 of title 38, U.S. Code.

**DoW RESPONSE:** NRO acknowledges receipt of GAO's recommendation and will update agency policy.

**RECOMMENDATION 3:** The GAO recommends that the SW ensure the Director of the National Security Agency (NSA) includes within NSA's guidance all five of the IC reemployment provisions, as required sections 4315 and 4325 of title 38, U.S. Code.

**DoW RESPONSE:** NSA concurs with the GAO recommendations and acknowledges the updates needed to comply with sections 4315 and 4325 of title 38, U.S. Code.

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## Endnotes

<sup>1</sup>Section 4301 et seq. of title 38, U.S. Code.

<sup>2</sup>38 U.S.C. §§ 4312-4315.

<sup>3</sup>The Reserve Components of the armed forces are the Army National Guard of the United States, the Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, and the Coast Guard Reserve. There is no Reserve Component in the Space Force.

<sup>4</sup>38 U.S.C. § 4312.

<sup>5</sup>We have ongoing work related to claims of alleged noncompliance with USERRA and expect to report on the results of that work in summer 2026.

<sup>6</sup>Sections 4315 and 4325 of title 38, U.S. Code, apply to service members who are employees of the seven IC elements. Service members who perform work as contractors for the seven IC elements have reemployment protections in accordance with the USERRA provisions that apply to their private employer.

<sup>7</sup>While military duty that is less than 30 days is covered under USERRA, a service member whose military duty is less than 30 days is not required to submit an application for reemployment. Therefore, the data for such instances are not as consistently identifiable across the seven IC elements. For the purposes of this report, we requested reemployment data from the seven IC elements for service members who went on military duty for 30 days or more from fiscal year 2019 through fiscal year 2025.

<sup>8</sup>38 U.S.C. §§ 4315 and 4325.

<sup>9</sup>DOD Instruction 1205.12, *Civilian Employment and Reemployment Rights for Service Members, Former Service Members, and Applicants of the Military Services* (Nov. 15, 2024). The nine DOD IC elements are: (1) Defense Intelligence Agency; (2) National Geospatial-Intelligence Agency; (3) National Reconnaissance Office; (4) National Security Agency; (5) Army Intelligence and Security; (6) Naval Intelligence Activity; (7) Marine Corps Intelligence Activity; (8) Air Force Intelligence; and (9) Space Force Intelligence.

<sup>10</sup>The nine non-DOD IC elements are: (1) Office of the Director of National Intelligence; (2) Central Intelligence Agency; (3) Department of Energy, Office of Intelligence and Counterintelligence; (4) Department of Homeland Security, Office of Intelligence and Analysis; (5) Department of Homeland Security, U.S. Coast Guard Intelligence; (6) Department of Justice, Federal Bureau of Investigation; (7) Department of Justice, Drug Enforcement Administration, Office of National Security Intelligence; (8) Department of State, Bureau of Intelligence and Research; and (9) Department of the Treasury, Office of Intelligence and Analysis.