

NOAA and PHS Veterans Are Entitled to Benefits Administered by the Department of Veterans Affairs (VA)

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[About Sam Wright](#)

11.0—Veterans claims

Our nation has five armed forces and seven uniformed services. The armed forces are the Army, Navy, Marine Corps, Air Force, and Coast Guard.³ The uniformed services are the armed forces plus the commissioned corps of the National Oceanic and Atmospheric Administration (NOAA) and the commissioned corps of the Public Health Service (PHS). Thus, all armed forces are uniformed services, but not all uniformed services are armed forces.

¹ I invite the reader's attention to www.roa.org/lawcenter. You will find more than 2000 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. I am the author of more than 1800 of the articles.

² BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. For 44 years, I have worked with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans' Reemployment Rights Act (VRRA—the 1940 version of the federal reemployment statute) for 38 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. 4301-35). I have also dealt with the VRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at SWright@roa.org.

³ 10 U.S.C. 101(a)(4). Although the Coast Guard is in the Department of Homeland Security (DHS) rather than the Department of Defense (DOD), it is considered to be an armed force at all times, not just in those rare instances (most recently during World War II) when the Coast Guard operated as a separate service within the Navy. The nascent Space Force can soon be added to this list.

If Congress by statute imposes a burden or confers a benefit upon members or former members of the armed forces, only the Army, Navy, Marine Corps, Air Force, and Coast Guard are affected. If Congress uses the term “uniformed services” the burden or benefit applies to the armed forces plus the NOAA Corps and the PHS Corps.

What is the NOAA Corps?

On its website, the NOAA Corps describes itself as follows:

The NOAA Commissioned Officer Corps (NOAA Corps) is one of the nation’s seven uniformed services. NOAA Corps officers are an integral part of the National Oceanic and Atmospheric Administration (NOAA), an agency of the U.S. Department of Commerce, and serve with the special trust and confidence of the President.

With 321 officers, the NOAA Corps serves throughout the agency’s line and staff offices to support nearly all of NOAA’s programs and missions. The combination of commissioned service and scientific expertise makes these officers uniquely capable of leading some of NOAA’s most important initiatives.

The NOAA Corps today provides a cadre of professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries science, and other related disciplines. Corps officers operate NOAA’s ships, fly aircraft, manage research projects, conduct diving operations, and serve in staff positions throughout NOAA.⁴

What is the PHS Corps?

On its website, the PHS describes itself as follows:

Overseen by the Surgeon General, the U.S. Public Health Service Commissioned Corps is a diverse team of more than 6,500 highly qualified public health professionals. Driven by a passion to serve the underserved, these men and women fill essential public health leadership and clinical service roles with the Nation’s Federal Government agencies.⁵

The PHS Corps is part of the United States Department of Health and Human Services (HHS), and PHS officers serve in 13 HHS agencies and offices, including the Indian Health Service and the National Institutes of Health.⁶ PHS officers also serve in ten agencies outside HHS, including

⁴ See <https://www.oma.noaa.gov/learn/noaa-corps/about/>.

⁵ See <https://usphs.gov/>.

⁶ See <https://usphs.gov/aboutus/agencies/hhs.aspx>.

the Department of Defense, the Bureau of Prisons (in the United States Department of Justice), the United States Coast Guard (in the Department of Homeland Security), and NOAA (in the Department of Commerce).⁷

NOAA officers and PHS officers are “veterans” for purposes of benefits administered by the VA.

The United States Department of Veterans Affairs (VA) administers the benefits provisions of title 38 of the United States Code (U.S.C.). The definitions section of title 38 defines the term “veteran” as follows: “The term ‘veteran’ means a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable.”⁸

The definitions section defines “active military, naval or air service” as follows:

(24) The term “active military, naval, or air service” includes—

(A) *active duty*;

(B) any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty; and

(C) any period of inactive duty training during which the individual concerned was disabled or died—

(i) from an injury incurred or aggravated in line of duty; or

(ii) from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident occurring during such training.^{9pp}

The definitions section defines the term “active duty” as follows:

(21) The term “active duty” means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) *full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945,¹⁰ or (ii) before that date under circumstances affording entitlement to “full military benefits” or (iii) at any time, for the purposes of chapter 13 of this title;*

⁷ See <https://usphs.gov/aboutus/agencies/non-hhs.aspx>.

⁸ 38 U.S.C. 101(2).

⁹ 38 U.S.C. 101(24) (emphasis supplied).

¹⁰ July 29, 1945 was 75 years ago. Anyone who served prior to that date must be dead or at least long retired. Accordingly, we need not concern ourselves with the provision for those who served prior to that date.

(C) *full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (I) while on transfer to one of the Armed Forces, or (II) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (III) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;*

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or service.¹¹

Thus, full-time service in the NOAA Corps or the PHS Corps qualifies as “active duty,” and “active duty” qualifies as “active military, naval, or air service.” Persons who have performed full-time service in the PHS Corps or NOAA Corps qualify as “veterans” for purposes of benefits administered by the VA.

Persons who have been released from full-time service in the PHS Corps receive the PHS Form 1867, “Statement of Service—Verification of Status of commissioned officers of the U.S. Public Health Service.” Persons who have been released from full-time service in the NOAA Corps receive NOAA Form 56-16, “Report of Transfer or Discharge as acceptable forms of evidence of qualifying active service in lieu of the DD-214.”

A person who has served in the PHS Corps or NOAA Corps is a “veteran” for purposes of benefits administered by the VA, just like a person who served in the Army or Navy. I regret ever having said otherwise.

Please join or support ROA

This article is one of 2000-plus “Law Review” articles available at www.roa.org/lawcenter. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. New articles are added each month.

ROA is almost a century old—it was established in 1922 by a group of veterans of “The Great War,” as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For many decades, we have argued that the Reserve Components, including the National Guard,

¹¹ 38 U.S.C. 101(21) (emphasis supplied).

are a cost-effective way to meet our nation's defense needs. Indeed, ROA is the *only* national military organization that exclusively supports America's Reserve and National Guard.

Through these articles, and by other means, we have sought to educate service members, their spouses, and their attorneys about their legal rights and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA, but please understand that ROA members, through their dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

If you are now serving or have ever served in any one of our nation's seven uniformed services, you are eligible for membership in ROA, and a one-year membership only costs \$20. Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to those who are serving or have served in the Active Component, the National Guard, or the Reserve. If you are eligible for ROA membership, please join. You can join on-line at www.roa.org or call ROA at 800-809-9448.

If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

Reserve Organization of America
1 Constitution Ave. NE
Washington, DC 20002

Note: Persons who are serving or have served in the PHS Corps or the NOAA Corps are eligible for full membership in ROA, and several hundred are members.