



DEC 05 2005

DIRECTOR'S MEMORANDUM NO. #05-06

MEMORANDUM FOR: REGIONAL ADMINISTRATORS AND DIRECTORS
FOR VETERANS' EMPLOYMENT AND TRAINING

FROM:


GORDON J. BURKE, JR.
Director, Operations and Programs

SUBJECT: Uniformed Services Employment and Reemployment Rights Act
(USERRA) and Veterans' Preference (VP) Case File Retention
and Disposal Procedures

- I. Purpose: To amend USERRA Operations Manual Chapter IX, Section 10, Paragraph 3; to resend DM 1-01 and DM 1-01, Change 1; and to issue guidance for the retention and disposal of USERRA and VP case files as described in the Federal Register on Systems of Records dated April 8, 2002.
- II. Reference: Director's Memorandum (DM) 1-01, "USERRA Operations Manual Revision; Closed Case Review Responsibility; Case Referrals, Referral Report, and Reassignment of Case Ownership to the Regional Office", October 4, 2000; DM 1-01, Change 1, November 8, 2000; USERRA Operations Manual; Veterans' Administrative Handbook; and Federal Register "Systems of Records", April 8, 2002.
- III. Background: DM 1-01 amended the USERRA Operations Manual to cutoff and remove USERRA cases files from the active file in fiscal year when litigation is completed, to transfer case records to Federal Records Center three years after cutoff, and destroy files when cases are ten years old. File cutoffs or file breaks are convenient points within a filing plan/system when files are separated for purposes of storage and/or disposition. For the purpose of USERRA case files, the separation occurs at the end of the fiscal year.

DM 1-01, Change 1 amended this paragraph as follows: Cutoff and remove USERRA case files from active files in fiscal year when case is closed except in situations where a claimant has requested referral to the Department of Justice or to the Office of Special Counsel. In situations where referrals are requested, cutoff and remove USERRA case files from active files in fiscal year when litigation is complete, when representation is declined or claimant withdraws claim. Maintain USERRA case files five years after cutoff and then destroy.

IV. Clarification and Guidance:

In accordance with Federal Register on Systems of Records dated April 8, 2002 defines the procedures for USERRA and VP Case files:

Cutoff and removal from active file in fiscal year when litigation is completed and transfer to Federal Records Center five (5) years after cutoff. Destroy when ten (10) years old.

- Exception: USERRA pension cases are **not** to be destroyed until the claimant has retired or fifty years after cutoff, whichever is sooner.

V. Action Required:

Effectively immediately, all USERRA and VP Case files shall be maintained as follows:

- Cut off and remove from active files in fiscal year when case is closed except in instances where a claimant has requested referral to the Department of Justice or the Office of Special Counsel. In instances where referrals are requested, cut off and remove from active files in fiscal year when litigation is complete, representation is declined or claimant withdraws claim.
- All investigative case files should be transferred to the Federal Records Center five years after cutoff for proper disposition. Cases are destroyed when ten years old with the exception of USERRA pension cases where the claimant does not retire within five years after cutoff. These pension cases are **not** to be destroyed until the claimant has retired or fifty years after cutoff, whichever is sooner.

VI. Inquiries: Questions can be directed to Rob Wilson at (202) 693-4719.

VII. Expiration Date: until superseded