

U.S. Department of Labor
USERRA Quarterly Report to Congress
First Quarter of Fiscal Year (FY) 2010
March 15, 2010

Introduction: The Department of Labor's (DOL) Veterans' Employment and Training Service (VETS) investigates and attempts to resolve complaints filed under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA, 38 U.S.C., Sec 4301 – 4335). If VETS' efforts do not result in successful resolution of the complaint, the claimant has the right to have his or her case referred to the Department of Justice (DOJ) or the Office of the Special Counsel (OSC), as appropriate, for those agencies to decide whether they will provide the claimant with legal representation regarding the complaint.

USERRA was amended by the Veterans' Benefits Improvement Act of 2008 (P.L. 110-389), which was signed into law on October 10, 2008. USERRA, as amended, now requires that VETS complete its investigation and attempts to resolve a case within 90 days of receiving the complaint, unless the claimant agrees to an extension of time. In addition, if the claimant wishes to have his or her case referred to DOJ or OSC, DOL must complete that referral within 60 days of receiving the request for referral, unless the claimant agrees to an extension of time. The law further requires DOL to report to Congress, within 30 days after the end of each fiscal quarter, the number of USERRA cases for which the Secretary did not complete its efforts within 90 days of receipt of complaint; and the number of USERRA cases where the claimant requested referral and the Secretary did not complete that referral within 60 days of receiving the claimant's request for referral.

The two categories below show the number of complaints and the number of referral requests received by DOL on or after enactment of P.L. 110-389 (October 10, 2008) that exceeded the statutory deadlines of 90 and 60 days, respectively. Because the statute allows DOL to obtain extensions of the deadlines from claimants, the Report differentiates cases and referrals where the claimant agreed to an extension of time from those where the deadlines were exceeded without the claimant's consent.

Category 1: USERRA Cases Received by DOL On or After October 10, 2008, Where 90-Day Deadline was either Met or Exceeded During the First Quarter of Fiscal Year 2010:¹

90-Day Deadline Met	90-Day Deadline Exceeded		
Cases Completed within Deadline	With Consent	Without Consent	Total
317	51	3	54

- During the first quarter of FY 2010, DOL/VETS completed its investigative activities within the 90 day statutory deadline in 317 USERRA cases received since enactment of P.L. 110-389, and the deadline was exceeded on 54 such cases not reported in our previous Quarterly Reports.²
- In all but three of the 54 newly reported cases that exceeded the deadline, DOL obtained the claimant’s consent to continue our efforts until a date beyond the 90-day point.³ Of the 54 newly reported cases that exceeded the deadline, DOL closed the case during the quarter on 33, and 21 remained open at DOL as of the end of the first quarter. DOL will report on the disposition of the 21 that remained active in its next Quarterly Report.

Disposition of previously reported cases:

- DOL’s USERRA Quarterly Report to Congress on the Fourth Quarter of FY 2009 reported that 40 cases that exceeded the 90 day deadline (31 newly reported cases and nine previously reported cases) remained open as of the end of the fourth quarter. The first quarter status of these 40 cases:
 - DOL closed 33 of these cases during the first quarter within the new deadline agreed to by the claimant.
 - Seven of these cases remained open as of the end of the first quarter, each with claimant’s consent to an extension of time.
- In this section of our next Quarterly Report, DOL will report on the disposition of the 28 (the 21 newly reported and the seven previously reported) cases indicated in this Report as exceeding the statutory deadline and remaining open as of the end of the first quarter.

¹ In its FY 09 Quarterly Reports, DOL included an addendum enumerating claims filed prior to enactment of P.L. 110-389 that remained active at DOL. All such claims have been closed, but might be reopened for additional investigation. One claim originally filed before enactment was reopened during the First Quarter of FY 10, with the claimant’s consent to an extension of time. That case was closed during the quarter.

² Three of these 54 cases had previously closed but were reopened, at the claimant’s request, in the first quarter.

³ In two of the three cases that exceeded the 90-day deadline without consent, the claimant could not be reached as the deadline approached via the contact information he had provided, so an extension could not be discussed. The investigations were completed and both cases were closed less than two weeks beyond the 90 day deadline. The third case was reopened, at claimant’s request, more than 90 days after the initial filing of the claim. Although the reopening was at the request of the claimant, VETS did not get specific consent from the claimant to continue the investigation beyond the 90 day mark. That case was closed two weeks after the reopening.

Category 2: USERRA Referral Requests Received by DOL On or After October 10, 2008, Where 60-Day Deadline was either Met or Exceeded During the First Quarter of Fiscal Year 2010:⁴

60-Day Deadline Met	60-Day Deadline Exceeded		
Referrals Completed within Deadline	With Consent	Without Consent	Total
24	13	0	13

- During the first quarter of FY 2010, 24 DOL referral actions on requests received on or after October 10, 2008, were completed within the 60-day statutory deadline, and the deadline was exceeded on 13 referrals not reported in our previous Quarterly Reports.
- In all of the 13 newly reported referrals that exceeded the deadline, DOL obtained the claimant’s consent to continue our efforts until a date beyond the 60-day point.
- Of the 13 newly reported referrals that exceeded the deadline, DOL finalized its referral actions during the quarter on six, and seven remained active at DOL as of the end of the first quarter.

Disposition of Previously Reported Referrals

- DOL’s USERRA Quarterly Report to Congress on the Fourth Quarter of FY 2009 reflected that 12 referrals exceeding the statutory deadline remained active as of the end of the fourth quarter (nine that were first reported in the Fourth Quarter Report and three that had been previously reported), all with the claimant’s consent to an extension of time. The status of those 12 referrals follows:
 - DOL finalized its referral actions on nine of these referrals during the first quarter within the deadline agreed to by the claimant.
 - Three remained active at DOL as of the end of the first quarter, with the claimant’s consent to an extension of time in all of these referrals
- In this section of our next Quarterly Report, DOL will report on the disposition of the 10 (the seven newly reported and the three previously reported) referrals indicated in this Report as exceeding the statutory deadline and remaining active as of the end of the first quarter.

⁴ In its FY 09 Quarterly Reports, DOL included an addendum enumerating referral requests received prior to enactment of P.L. 110-389 that remained active at DOL. Two such referrals were active at DOL during the First Quarter of FY 10, and both remained active as of the end of the quarter, each with the claimants’ consent to an extension of time.