

U.S. Department of Labor
USERRA Quarterly Report to Congress
Third Quarter of Fiscal Year (FY) 2010

August 24, 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 reporting categories that follow show the number of complaints and the number of referral requests received by DOL that exceeded the statutory deadlines of 90 and 60 days, respectively, during the quarter. 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 where 90-Day Deadline was either Met or Exceeded during the Third Quarter of Fiscal Year 2010:

90-Day Deadline Met	90-Day Deadline Exceeded		
	With Consent	Without Consent	Total
Cases Completed within Deadline			
291	56	0	56

- During the third quarter of FY 2010, DOL/VETS completed its investigative activities within the 90 day statutory deadline in 291 USERRA cases and the deadline was exceeded on 56 such cases not reported in our previous Quarterly Reports.¹
- In all of the 56 newly reported cases that exceeded the deadline, DOL obtained the claimant’s consent to an extension of time to continue our efforts beyond the 90-day point. Of the 56 newly reported cases that exceeded the deadline, 29 closed during the quarter and 27 remained open at DOL as of the end of the third quarter. DOL will report on the disposition of the 27 cases that remained active in its next Quarterly Report.

Disposition of previously reported cases:

- DOL’s USERRA Quarterly Report to Congress on the Second Quarter of FY 2010 reported that 35 cases that exceeded the 90 day deadline (29 newly reported cases and six previously reported cases) remained open as of the end of the second quarter. The third quarter status of these 35 cases:
 - DOL closed 34 of these cases during the third quarter, each within an additional period of time agreed to by the claimant.
 - One of these cases remained open as of the end of the third quarter, within an extension of time agreed to by the claimant.
- One additional case that had been closed and reported as having exceeded 90 days (with claimant’s consent) in a previous Quarterly Report was reopened during the third quarter at the claimant’s request. This case was then closed again during the quarter, but without an extension of time being negotiated with the claimant.
- In this section of our next Quarterly Report, DOL will report on the disposition of the 28 (the 27 newly reported and the one previously reported) cases indicated in this Report as exceeding the statutory deadline and remaining open as of the end of the third quarter.

¹ Four of these 56 cases had previously closed within 90 days but were reopened, at the claimant’s request, in the third quarter.

Category 2: USERRA Referral Requests Received by DOL where 60-Day Deadline was either Met or Exceeded during the Third Quarter of Fiscal Year 2010:

60-Day Deadline Met	60-Day Deadline Exceeded		
Referrals Completed within Deadline	With Consent	Without Consent	Total
28	13	0	13

- During the third quarter of FY 2010, 28 DOL referral actions 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 for an additional period of time beyond the 60-day point.
- Of the 13 newly reported referrals that exceeded the deadline, DOL finalized its referral actions during the quarter on seven, and six remained active at DOL as of the end of the third quarter.

Disposition of Previously Reported Referrals

- DOL’s USERRA Quarterly Report to Congress on the Second Quarter of FY 2010 reflected that 12 referrals exceeding the statutory deadline remained active as of the end of the second quarter (10 that were first reported in the Second Quarter Report and two 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 10 of these referrals during the third quarter. DOL completed its referral within the additional period of time agreed to by the claimant in nine of these referrals. The other exceeded the deadline agreed to by the claimant by one day.
 - Two previously-reported referrals remained active at DOL as of the end of the third quarter, both with the claimant’s consent to an extension of time.
- In this section of our next Quarterly Report, DOL will report on the disposition of the eight (six newly reported and two previously reported) referrals indicated in this Report as exceeding the statutory deadline and remaining active as of the end of the third quarter.