



## LEGAL Q&A

**Q** Our employee just returned from military service. Due to the economy we're not hiring, and we have no available positions. Must we reemploy him?

**A** Most likely yes. Federal law, and in some cases New Jersey law, provide broad employment and reemployment rights to members of the military, including the National Guard and Reserves. If a service member meets the seemingly simple eligibility requirements, employers must provide reemployment notwithstanding hiring freezes or other prohibitive circumstances caused by current economic conditions. Further, employers are required to apply the "escalator principle" to reemploy the service member in the position he would have achieved had the employment not been interrupted by military leave, at the same benefit level he would have attained through continuous employment (i.e., increased salary and vacation entitlement). However, an employer who can prove a service member's position would have been eliminated irrespective of the military leave is not required to reemploy the service member.

In these times, understanding service members' vast employment and reemployment rights is a business essential.



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