

EMPLOYMENT RIGHTS FOR TEXAS MILITARY

Under Texas Government Code Chapter 437



Texas Government Code §437.204 provides protection from employment discrimination for members of Texas military forces while they are engaged in authorized training or duty that is ordered or authorized by the proper authority. Military members who are covered under this provision include the Texas National Guard, Texas State Guard, and any other military force organized under Texas State law. If someone is a member of the federal armed forces and is employed by a private employer, they are only covered by the federal Uniformed Services Employment and Reemployment Rights Act (USERRA)—not Tex. Gov't Code §437.204.

Members of the Texas Military Department (TMD), when ordered to state active duty or to state training and other duty by the proper authority, are entitled to the protections under SCRA and USERRA.

- SCRA provides members with relief from certain civil obligations while on active military duty, such as rental agreements, security deposits, prepaid rent, evictions, installment contracts, credit card interest rates, automobile reposessions, mortgage interest rates, mortgage foreclosures, civil judicial proceedings, automobile leases, life insurance, health insurance, and income tax payments.

- USERRA prohibits all employers from discriminating against employees who leave to serve in the military and requires the employer to reinstate the employee if the absence is five years or less. USERRA also provides protection for disabled veterans, requiring employers to make reasonable efforts to accommodate the disability.

Under Texas Government Code §437.202, an officer or employee of the State of Texas, a municipality, a county or another political subdivision who is a member of the Texas military forces, a reserve component of the federal armed forces, or a member of a state or federally authorized urban search and rescue team, is entitled to a paid leave of absence while participating in authorized training or duty, not to exceed 15 work days in a federal fiscal year (October 1st to September 30th).

In addition to this leave, a person described above called to state active duty by the proper authority in response to a disaster is entitled to a paid leave of absence from their duties for each day the person is called to active duty during the disaster, not to exceed seven workdays in a fiscal year. During a leave of absence under this subsection, the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time.

ENFORCEMENT

Unlawful employment practices under Tex. Gov't Code §437.204 include:

- Termination of employment because the employee is ordered to authorized training or duty,
- Failure to return an employee to the same employment held when ordered to authorized training or duty, or
- Loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the action.

A person injured by an unlawful employment practice under Tex. Gov't Code §437.204 due to membership in Texas Military Forces, may file a complaint with the Texas Workforce Commission Civil Rights Division (TWCCRD). The complaint must be in writing, made under oath, and include:

- The date, place, circumstances, etc., of the violation, and
- Sufficient contact information of the employer.

In accordance with Texas law, a military member described above may retain private legal counsel and file a civil action in court for the offenses listed above and receive compensation for damages and attorney's fees.

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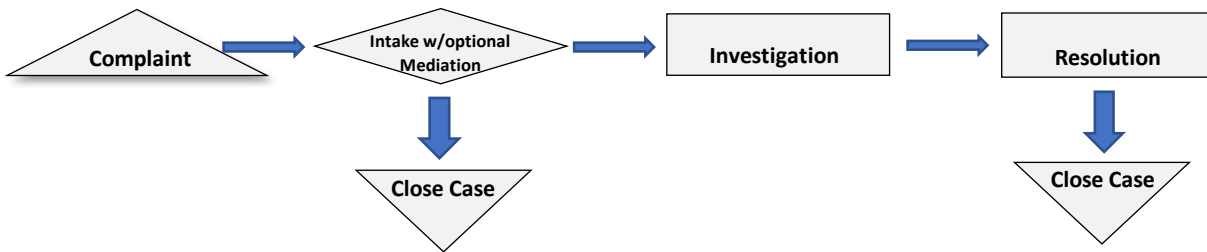
EMPLOYEE RESPONSIBILITIES AND BEST PRACTICES



State military members

- Should provide their employer with proof of membership in the Texas military forces
- Should immediately notify their employer upon receipt of orders authorizing military training or duty
- Must, as soon as practicable after release from duty, give written or actual notice of intent to return to employment
- Should return to normal employment as soon as practicable after release from duty

CHAPTER 437 COMPLAINT PROCESS



The TWCCRD Discrimination Complaint form is located at: <http://www.twc.state.tx.us/files/partners/employment-discrimination-complaint-twc.pdf>

Employers may contact TWCCRD with questions about complying with Tex. Gov't Code §437 via email at: CRDTraining@twc.texas.gov