



# Commonwealth of Virginia

## 457 Deferred Compensation and Cash Match Plans

### Guide to Uniformed Service Leave Make-Up

**Background:** When civilian employees participate in uniformed service they are eligible for certain benefits defined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). This Guide addresses the rights and responsibilities of employees of the Commonwealth of Virginia or a Political subdivision or school division participating in the Commonwealth’s 457 Deferred Compensation and Cash Match Plans who left employment for uniformed service and are reemployed by the original employer within the time frame specified by USERRA. Upon reemployment these employees are entitled to Plan benefits that would have accrued had the employee not been absent due to uniformed service. This Guide also outlines conditions that employees must meet in order to receive these benefits.

**Eligibility:** USERRA extends continued benefit rights to most employees absent from work because of “service in the uniformed services.” For purposes of USERRA, “uniformed service” includes: the Army, Navy, Air Force, Marines, Coast Guard and the reserve components of these services, the commissioned corps of the Public Health Service, the National Guard, the National Disaster Medical System and any other category of persons designated by the President in a time of war or emergency.

“Service” for purposes of USERRA means active duty, active duty for training, initial active duty for training, inactive duty training, examination to determine fitness for duty, funeral honors, and full-time National Guard duty. Service may be voluntary or involuntary.

**Qualifying for the Benefits:** The following conditions must be met in order for 457 Plan participants to claim USERRA benefits:

1. The employee gives the employer advance written or verbal notice of the service, unless precluded by military necessity.
2. The employee has no more than 5 cumulative years of absence from the employer for uniformed service. However, this limitation is subject to exceptions. Most notably, uniformed service resulting from an order to active duty because of war or national emergency declared by the President or Congress does not count against the five-year limit.
3. Employee must not have been released from the uniformed service under dishonorable or other punitive condition.
4. The employee must return to employment with the original employer within the following specified time frames based on the length of his or her service:

<b>Period of service 30 days or less</b>	The employee must report to work no later than the beginning of the first full work period on the first full calendar day following discharge, plus reasonable time required to return home safely and an 8-hour rest period.
<b>Period of service more than 30 but less than 180 days</b>	The employee must return to employment no later than 14 days following discharge.
<b>Period of service of 180 days</b>	The employee must return to employment no later than 90 days following discharge.

In each instance, if the employee is unable to meet the deadline through no fault of his or her own, the deadline is extended to a time that is as soon as possible. In addition, the preceding deadlines are extended for up to two years for an employee who is hospitalized or convalescing.

**Time Limit for Making Up Missed Deferrals:** Make-up deferrals must be made within a period not exceeding three times the period of uniformed service, but in no case more than five years. This is referred to as the statutory period. This period begins the day the employee returns to work. The three times the period of uniformed service or five years applies to each separate instance of leave. (Example: A participant is on uniformed service leave from July 2007 through November 2008. He returns to work in December 2008. The length of the uniformed service was 17 months. Therefore the participant has 51 months from December 2008 to make up the contributions missed.)

If the employee is re-employed and then required to return to uniformed service prior to being able to complete the uniformed service leave make-up, the time remaining on the first period of make-up eligibility is frozen and reactivated when the employee again returns to the original employer and qualifies for USERRA benefits. The employee must independently qualify to make up deferrals for each period of uniformed service leave.

The period between the date the uniformed service ends and the date the employee returns to work with the original employer must be included in determining the amount of deferrals that can be made up.

Deferrals can be made up only while the individual is an employee of the original employer. If the employee leaves that employer but returns to that employer within the statutory make-up period, he may continue to make up deferrals until the end of the statutory period.

**How Much May Be Contributed:** For purposes of calculating the contribution limit, use the compensation the employee would have received if not for the uniformed service leave. If that cannot be determined, calculate the amount using the average amount earned during the last 12 months prior to the beginning of the uniformed service leave. The contribution limits for the year(s) in which the leave occurred apply:

Year	Annual Dollar Limit	Age 50+ Catch-up	Standard Catch-Up
2002	\$11,000	\$1,000	\$22,000
2003	\$12,000	\$2,000	\$24,000
2004	\$13,000	\$3,000	\$26,000
2005	\$14,000	\$4,000	\$28,000
2006	\$15,000	\$5,000	\$30,000
2007	\$15,500	\$5,000	\$31,000
2008	\$15,500	\$5,000	\$31,000
2009	\$16,500	\$5,500	\$33,000
<b>2007 – 2010 Indexed to inflation in \$500 increments</b>			

Employees who were eligible to use the 457 Standard Catch-Up during the period they were on uniformed service leave may make up deferrals to the Standard Catch-Up limit for which they qualified during the period of leave.

**Contributing Uniformed Service Make-up Deferrals to the Plan:** Make-up deferrals are made through payroll reduction once the participant returns to employment. Deferrals may not be made by giving the employer an after-tax payment. The participant may make additional elective deferrals beginning as early as the date of re-employment. The make-up deferrals reduce the tax liability for the current year. This could result in doubling of the employee’s tax savings in the year in which the make-up deferrals are made. This is because the employee is allowed to contribute up to the limit for the years in which the leave occurred, as well as the year in which the make-up deferrals are being made.

**Initiate the Uniformed Service Leave Make-Up:** In order to make up deferrals to the 457 Plan that were not made because the employee was on uniformed service leave, he or she must do the following:

1. Complete the Application for Uniformed Service Leave Make-Up. This will determine the amount of additional deferral and the time period in which the deferrals must be completed.
2. Complete the Payroll Authorization Form. Indicate how much of the “New Contribution per Pay” amount is for uniformed service leave make-up, the year it is for and the annual salary for the year for which the leave is being made-up.
3. Provide a copy of the DD-214 showing the dates the uniformed service began and ended.

**Give these three documents to your agency payroll office.**

**Qualifying for the Cash Match:** The purpose of the Cash Match Plan is to encourage regular tax-deferred retirement savings. The employer cash match is based on the deferrals to the 457 Plan made by the employee each pay period. USERRA entitles the employee to the Cash Match only to the extent that he or she makes up missed deferrals after returning to employment.

*(Example: An employee defers to the 457 Plan for the first 12 semi-monthly pay periods during 2008. She is called to uniformed service in July 2008 and returns to employment January 2, 2009. In order to receive the maximum cash match for the remaining 2008 pay periods, she must defer at least \$480.00 to the 457 Plan and have this amount designated as 2008 deferrals. She would then be eligible for \$240.00 of employer cash match based on \$20.00 per pay period for the remaining pay periods of 2008.)*

To the extent the employee makes up 457 Plan deferrals for periods of uniformed service leave, he or she is due the employer cash match at the rate in effect during the period of leave.

**Questions about Uniformed Service Leave Make-up should be directed to a Customer Service Associate at 1-VRS-DC-PLAN1 (1- 877-327-5261).**



# Commonwealth of Virginia 457 Deferred Compensation Plan Application for Uniformed Service Leave Make-Up

**Note: A separate application must be completed for each period of Uniformed Service Leave for which you wish to make-up deferrals to the 457 Plan.**

## A. General Information:

Name: Last	First	Middle	Social Security Number
Home Address: Number & Street	City	State	Zip Code
Agency	Agency Number	Employee Number	

## B. Uniformed Service Make-Up Calculation:

1. Beginning date of Uniformed Service Leave: \_\_\_\_\_
2. Date of separation from Uniformed Service: \_\_\_\_\_
3. Length of Uniformed Service Leave: \_\_\_\_\_
4. Date of return to employment: \_\_\_\_\_
5. Date that eligibility to make-up this period of leave will end: \_\_\_\_\_
6. Annual salary for each year of Uniformed Service Leave:
 

Year	Salary
7. 457 Plan deferrals made during period of leave (if any): \_\_\_\_\_
8. Date that make-up deferrals will begin: \_\_\_\_\_
9. Amount of make-up deferral per pay date: \_\_\_\_\_
10. Number of pay periods during which make-up deferrals will be made: \_\_\_\_\_
11. Total amount of make-up deferrals: \_\_\_\_\_

## C. Documentation:

Give this application, a copy of your DD-214 and a Payroll Authorization Form to your agency payroll office.

## D. Signatures:

\_\_\_\_\_  
Participant Signature Date

\_\_\_\_\_  
Agency Representative Signature/Title Date

## Agency Representative Please Mail to:

Virginia Retirement, Defined Contribution Plans  
P.O. Box 2500  
Richmond, VA 23218-2500



## Commonwealth of Virginia 457 Deferred Compensation Plan Application for Uniformed Service Leave Make-Up

**Note: A separate application must be completed for each period of Uniformed Service Leave for which you wish to make-up deferrals to the 457 Plan.**

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**General Information:** Provide complete information as requested. Your agency payroll office can provide your employee number if one is used by your agency.

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### Uniformed Service Make-Up Calculation:

1. The beginning date of Uniformed Service Leave is the date indicated on the DD-214 when Uniformed Service began.
2. The date of separation is the separation date indicated on the DD-214.
3. The length of Uniformed Service Leave is the amount of time between the beginning date and the date of separation and must include the period allowed prior to return to employment.
4. Enter the date you returned to employment. From this date, you have a period of three times the length of the Uniformed Service, or five years which ever is less, to make up the deferrals.
5. The date that eligibility to make up deferrals will end is three times the length of the Uniformed Service Leave beginning with the date of return to employment, not to exceed five years.
6. Enter the salary that would have been paid had you not been on Uniformed Service Leave. If the amount that would have been paid cannot be determined, use the average amount earned during the last 12 months prior to the beginning of the leave. Your employer can assist you with this.
7. Enter the deferrals made from Executive Order 44 active military supplement or supplement paid by employer if not a State employee. Deferrals made from an active military supplement count toward the deferral limit.
8. The date the make-up deferrals will begin is the "Effective Pay Date" on the Payroll Authorization Form on which you have requested that the make-up deferrals began.
9. The amount of make-up deferrals per pay is included on the New Deferral per Pay Period line of the Payroll Authorization Form.
10. Indicate the number of pay periods during which make-up deferrals will be made.
11. Multiply the dollar amount in item 9 by the number of pay periods in item 10 to determine the total amount of make-up deferrals.

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**Documentation:** Give the application, a copy of your DD-214 and the Payroll Authorization Form to your agency payroll office. The payroll office will mail the Uniformed Service Leave Make-Up packet consisting of the following items to Virginia Retirement, Defined Contribution Plans, P.O. Box 2500, Richmond, VA 23218-2500:

- Application for Uniformed Service Leave Make-Up
- Payroll Authorization Form
- Copy of DD-214

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**Signatures:** The participant must sign and date the form. An agency representative must also sign and date the form certifying that the date of return to employment and salary are correct and that the date the eligibility to make up this period of leave will end is correct. The agency will retain a copy of the application. If applicable, the agency will make the employer cash match that is due based on the make-up deferral.



# Commonwealth of Virginia 457 Deferred Compensation Plan Payroll Authorization Form Uniformed Service Leave Make-Up Deferrals

**THIS FORM MUST BE USED TO ELECT MAKE-UP DEFERRALS  
FOR UNIFORMED SERVICE LEAVE**

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**Introduction:** If you are returning to employment from Uniformed Service within the time prescribed by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) you are eligible to make up missed deferrals to the Commonwealth of Virginia 457 Deferred Compensation Plan. You must use this form to elect your USERRA Make-Up Deferrals. By doing so, you will also receive employer matching contributions in accordance with the terms of the Virginia Cash Match Plan or your employer's adoption agreement if you were otherwise eligible for matching contributions when you left employment.

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### Action Requested:

The box under the Action Requested section of this Form indicating that these contributions are USERRA make-up deferrals to the Commonwealth of Virginia 457 Deferred Compensation Plan has already been checked because that is the only election for which this Form may be used.

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### General Information:

Provide complete information as requested. If your employer requires an **Employee Number** and you do not know what it is, contact your agency payroll office.

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### Payroll Information:

- **Effective Pay Date** is the date on which the change you request will be reflected in your pay. The change can be effective no earlier than the first of the month following the month you submit the form, on the next available pay date if later.
- **Agency** is the name of the employer with whom you qualify to participate in the Commonwealth's 457 Plan.
- **Agency Code** — your agency's payroll office or human resources office can give you this information.
- **Work Location** is where you normally report to work.
- **Current Deferral per Pay** is the amount of your 457 Plan deferral prior to the change you are requesting. If this is \$0, please insert \$0.
- **New Deferral per Pay** is the amount of deferral you are requesting each pay period, including the USERRA make-up deferral, beginning on the effective date. Refer to Application for Uniformed Service Leave Make-Up for other required information in New Deferral section.

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**Documentation:** Give this Payroll Authorization Form, the Application for Uniformed Service Leave Make-Up, and a copy of your DD-214 to your agency payroll office. The payroll office will mail the Uniformed Service Leave Make-Up packet to:

**Virginia Retirement, Defined Contribution Plans  
P.O. Box 2500  
Richmond, VA 23218-2500  
1-VRS-DC-PLAN1 (1-877-327-5261)**



**Commonwealth of Virginia 457 Deferred Compensation Plan  
Payroll Authorization Form  
Uniformed Service Leave Make-Up Deferrals**

**THIS FORM MUST BE USED TO ELECT MAKE-UP DEFERRALS  
FOR USERRA UNIFORMED SERVICE LEAVE**

**Action Requested:**

Commence make-up deferrals in accordance with USERRA, Plan terms and my election.

**General Information:**

Last Name	First Name	Middle Name
Home Address: Number & Street		
City	State	Zip Code
Social Security Number	Employee Number (if required)	Date of Birth

**Payroll Information:**

Effective Pay Date	Agency	Agency Code
Work Location	Work Phone	(      )
\$ Current Deferral per Pay Period	\$ New Deferral per Pay Period*	\$ Annual Salary

**\*New Deferral per Pay Period includes \$ \_\_\_\_\_ per pay that is make-up deferrals  
for calendar year \_\_\_\_\_. Eligibility to make up deferrals for this period of uniformed  
service leave ends on \_\_\_\_\_. \*\***

\*\* See item 5 on Application for Uniformed Service Leave Make-Up.

**Virginia Cash Match Plan – NOTICE TO EMPLOYER**

**Upon a returning employee making additional USERRA make-up deferrals, he or she is entitled to matching contributions under the terms of the Virginia Catch Match Plan and your adoption agreement, if applicable.**

**Signature:**

Participant Signature	Date
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**This form along with the Application and a copy of the DD-214 must be sent to:**

**Virginia Retirement, Defined Contribution Plans  
P.O. Box 2500  
Richmond, VA 23218-2500  
1-VRS-DC-PLAN1 (1-877-327-5261)**