



# THE ADJUTANT GENERAL WYOMING INSTRUCTION

NGWY-HRO  
DISTRIBUTION: A

TAGI-WY 1400.01  
1 October 2020

SUBJECT: RETURNING TO A FEDERAL CIVILIAN STATUS FOR THE SOLE PURPOSE OF COMPLETING A MILITARY DEPOSIT PRIOR TO USERRA EXPIRATION

## References.

- a. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)
  - b. 5 CFR §842.307
1. Purpose. This instruction establishes the process by which a federal civilian employee (T32 Dual-Status or T5 National Guard employee) who is in an Absent-Uniformed Services (A-US) or Separation – Uniformed Services (S-US) status due to an AGR tour, and is electing to return to duty to their federal civilian position for the sole purpose of completing a military deposit prior to the expiration of their five (5) year USERRA restoration rights.
  2. Cancellation. None.
  3. Applicability. This instruction applies to all Title 32 Dual-Status and Title 5 National Guard employees of the Wyoming Military Department, who are currently in an A-US or S-US status while simultaneously serving on an AGR tour.
  4. Policy. It is WYMD policy that we comply with USERRA rights and allow T32 Dual Status or T5 employees to restore to their federal civilian position, and make a military deposit for time that was interrupted due to serving on active duty with the uniformed services. It is also WYMD policy to ensure that the employee restores to a federal civilian status for the sole purpose of making a military deposit, and that restoration does not create any undue financial hardship to the WYMD.
  5. Responsibilities. Employee, Immediate Supervisor, Directorate or Group Commander, Human Resources Office (Benefits Branch and AGR Branch), and Finance Offices (local and DFAS Indianapolis).
  6. Summary of Changes. None.

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7. Process.

- a. In order for an employee to complete a military deposit for any AGR service time that has interrupted their federal civilian service time, the employee must elect to restore to their federal civilian position prior to the expiration of their five (5) year USERRA restoration rights. If an employee elects not to restore prior to the expiration of that period, they will waive all future rights or opportunities to complete a military deposit for the time spent on an AGR tour.
- b. Once an employee restores to their federal civilian position, a military deposit must be complete in full prior to separating as a federal employee, in order for the interrupted time to count as creditable service towards a federal civilian retirement.
- c. For federal civilian employees who elect to separate from their AGR tour and return to their civilian position for the sole purpose of making a military deposit, the following conditions apply and shall be followed:
  - i. The employee must elect to restore to their federal civilian position with the sole intent to complete a military deposit, and then resign or retire as a federal civilian employee.
  - ii. The employee must restore to their federal civilian position 30 days prior to the expiration of their five (5) year USERRA period.
  - iii. Employee will be required to expend all accrued AGR leave.
  - iv. The return to duty (RTD) effective date will be the same day that the AGR leave period begins, or on the same effective date of their AGR separation.
  - v. If the employee intends to restore back to an AGR status once the military deposit is complete, they must communicate their intent to the AGR manager prior to restoring to their federal civilian position. The following procedures shall be followed:
    1. An SF52 must be complete to request a return to AGR status once the military deposit is complete. The AGR branch will staff the SF52 for Wing Commander or Chief of Staff approval, and then forward to HRO for final approval.

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2. Once separated as an AGR, the employee must remain in a federal civilian status for a minimum of 120 days, and shall not return back to an AGR status sooner than 120 days.
  3. The employee must provide HRO with a paid in full letter as proof that the military deposit has been complete. Once the letter is received, the employee may be restored to their AGR status.
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- vi. At the conclusion of the employee's AGR tour, Tricare benefits will end. The employee is responsible for enrolling in any federal benefits during the time they are returned to a federal civilian status, while awaiting completion of their military deposit.
  - vii. While in a federal civilian status, the employee is responsible to coordinate their M-day/DSG assignment. If they are electing to separate or retire from the military, they are responsible to complete all applications or actions with their military unit.
  - viii. If the employee is electing to retire as a federal civilian employee, they are responsible to contact the HRO retirement specialist, and begin the process to apply for retirement while awaiting the completion of their military deposit.
  - ix. The employee is responsible to communicate with the immediate supervisor for their federal civilian position. Both employee and supervisor are responsible to discuss and determine duties, responsibilities, and duty status while awaiting completion of the military deposit.
  - x. The employee must contact their local Finance office to ensure that their civilian ATAAPS account is active and accessible to complete biweekly civilian time cards.
  - xi. The HRO Benefits Section is responsible to educate the employee on their return rights and responsibilities, process applicable personnel actions in DCPDS, and send all documents to DFAS for military deposit processing.
  - xii. The Air/Army AGR Branch is responsible to brief the employee on their final pay and termination of AGR benefits. Air branch will publish the final AGR order. Army branch will publish the REFRAD order, DD214, and DA Form 31 for final leave. Both branches will

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distribute paperwork to appropriate entities and make necessary updates  
in the personnel system.

8. Releasability. This instruction is approved for public release; distribution is unlimited. Obtain copies through the WYMD SharePoint.
9. Effective Date. This instruction is effective upon publication, and must be revised, reissued, cancelled or certified as current every five years.
10. Point of Contact (POC). The OPR for this instruction is HRO - Benefits, at (307) 772-5213.

GREGORY C. PORTER  
MG, WY NG  
The Adjutant General

Enclosures:

A – Military Deposit Process Map

## ENCLOSURE A

### Process Map – USERRA Separation from AGR Status and Restore to a Federal Civilian Position to Complete a Military Deposit

