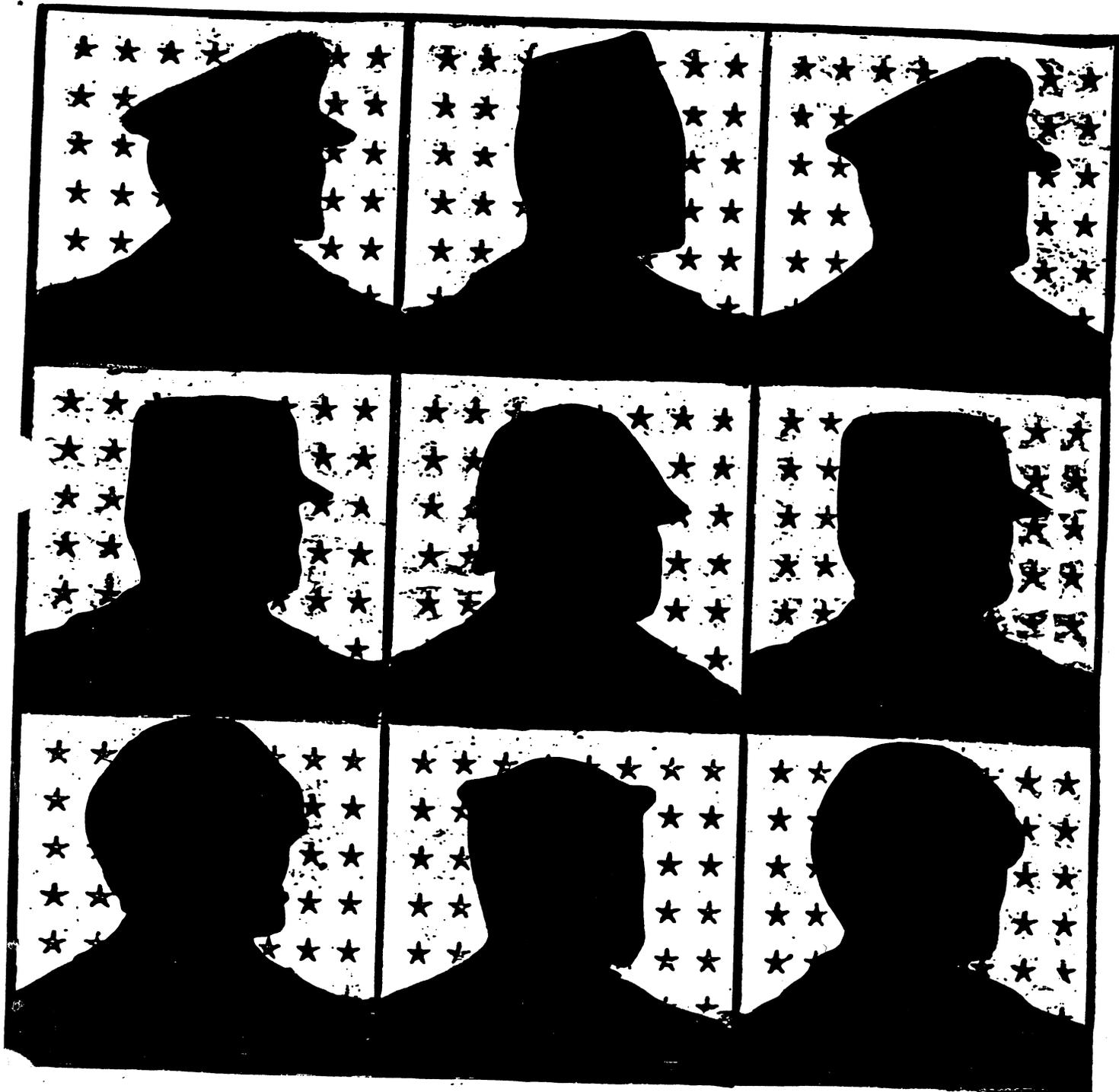


Unemployment Compensation for Ex-Servicemembers (UCX)

U.S. Department of Labor
Employment and Training Administration
Handbook No. ETA 384

NOVEMBER 1994

Second Edition



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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUMI
	DATE December 23, 1994

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION

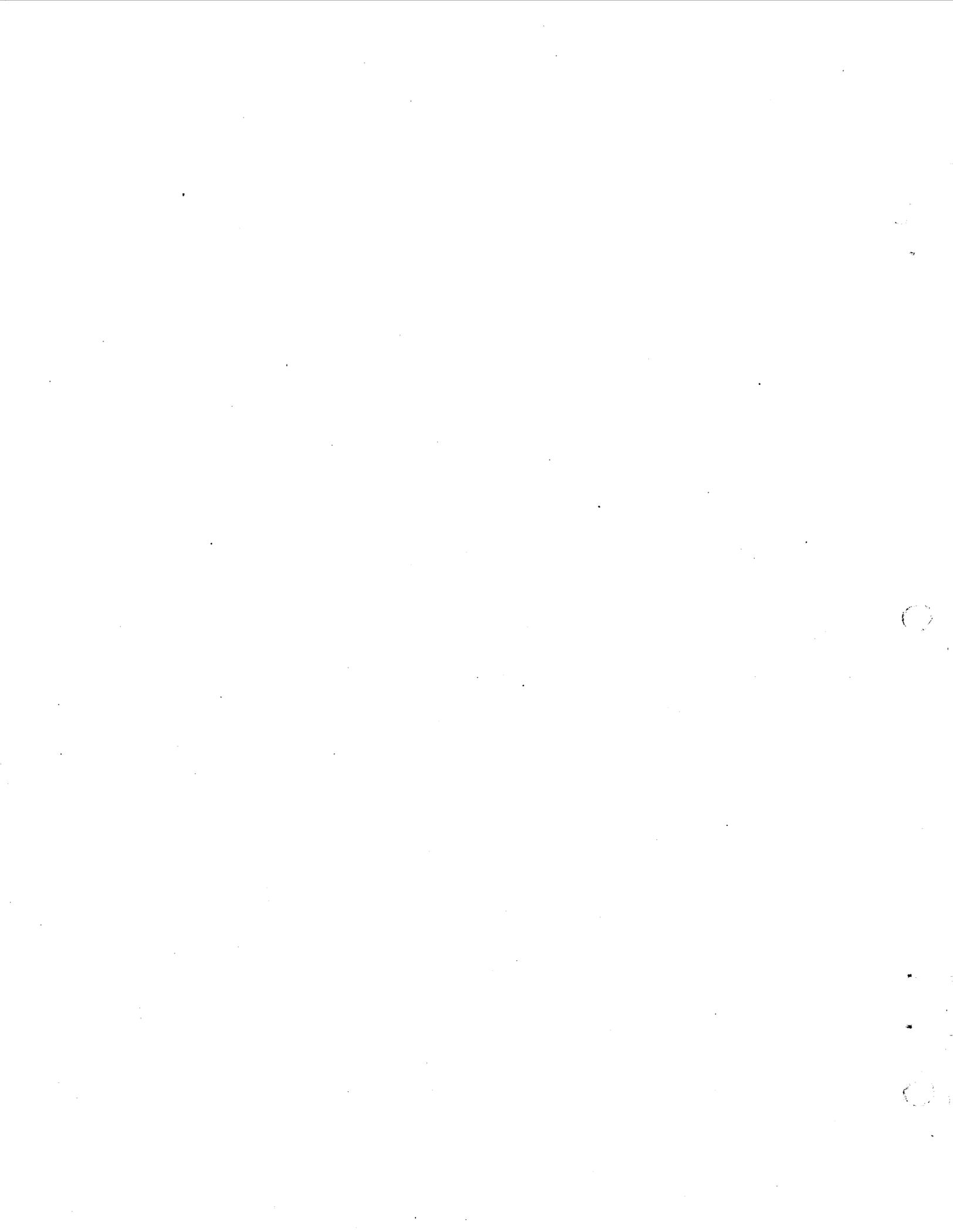
 TO : ALL REGIONAL AND STATE EMPLOYMENT SECURITY AGENCIES

 FROM : *Barbara Ann Farmer*
 BARBARA ANN FARMER
 Administrator
 for Regional Management

 SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)

1. Content. Procedures for the payment of UCX under 5 U.S.C. 8521-8525. These procedures supersede UCX procedures previously published in the first edition of ET Handbook 384 on January 2, 1981 and changes one through six.
2. Action Required. Regional Administrators should ensure that State employment security agencies (SESAs) distribute whatever copies are needed for SESA use.
3. Inquiries. Direct inquiries to the appropriate Regional Office.

RESCISSIONS ET Handbook No. 384, First Edition and changes one through six	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI/UCX
	CORRESPONDENCE SYMBOL TEUMI
	DATE April 25, 1995

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 1

TO: : ALL REGIONAL AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : *Barbara Ann Farmer*
 BARBARA ANN FARMER
 Administrator
 for Regional Management

SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)

1. Content. This ET Handbook change transmits a revised page pertaining to the UCX program containing the changes incorporated in Change 1 to UIPL 3-95.

2. Action Required. RAs and SESAs should ensure that this page is properly substituted as required.

3. Instructions for Handbook Maintenance.

Remove and Destroy (11/94)

Appendix D, page D-1

Insert (3/95)

Appendix D,
 pages D-1 and D-2

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUMI
	DATE May 15, 1995

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION CHANGE 2

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : *Barbara Ann Farmer*
 BARBARA ANN FARMER
 Administrator
 for Regional Management

SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)

1. Contents. This ET Handbook change transmits a revised page pertaining to the UCX program.
2. Action Required. RAs and SESAs should ensure that this page is properly substituted as required.
3. Instructions for Handbook Maintenance.

<u>Remove and Destroy</u> (11/94)	<u>Insert</u> (4/95)
Page IV-21	Page IV-21

RESCISSIONS None	EXPIRATION DATE Continuing
----------------------------	--------------------------------------

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUMI
	DATE May 31, 1995

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 3

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : *Barbara Ann Farmer*
 BARBARA ANN FARMER
 Administrator
 for Regional Management

SUBJECT : **Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)**

1. Contents. These ET Handbook changes transmit revised pages pertaining to the UCX program.
2. Action Required. RAs and SESAs should ensure that these pages are properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy (11/94)

Insert (4/95)

Page IV-7
 Page IV-16
 Page VI-10
 Page VI-11
 Page VI-12
 Page VI-13

Page IV-7
 Page IV-16
 Page VI-10
 Page VI-11
 Page VI-12
 Page VI-13

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUMI
	DATE June 2, 1995

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 4

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : *Barbara Ann Farmer*
 BARBARA ANN FARMER
 Administrator
 for Regional Management

SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)

1. Contents. This ET Handbook change transmits a revised page pertaining to the UCX program.
2. Action Required. RAs and SESAs should ensure that this page is properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy (11/94)

Insert (5/95)

Page VI-6

Page VI-6

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUMI
	DATE June 19, 1995

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 5

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : *Barbara Ann Farmer*
 BARBARA ANN FARMER
 Administrator
 for Regional Management

SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)

1. Contents. These ET Handbook changes transmit revised pages pertaining to the UCX program.
2. Action Required. RAs and SESAs should ensure that these pages are properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy (11/94)

Insert (5/95)

Page VI-18
 Page VI-19

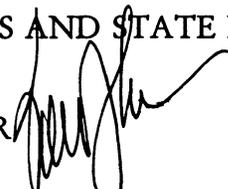
Page VI-18
 Page VI-19

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUMI
	DATE July 19, 1995

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 6

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM :  BARBARA ANN FARMER, 
 Administrator
 for Regional Management

SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX) -- Narrative Reasons for Separation

1. Contents. This ET Handbook change transmits a revised page pertaining to "Acceptable" narrative reasons for separation for the UCX program qualifying purposes.

2. Background. On April 25, 1995, ET Handbook No. 384, Second Edition, Change 1 transmitted a consolidated list of acceptable narrative reasons for separation pertaining to all branches of military service to enable SESAs to make accurate UCX eligibility determinations.

Since that time, the Army has informed us that **some Army officers** separated before completing their first full term of service under an early release program for the convenience of the Government from October 1, 1994 through August 31, 1995, have been given a narrative reason for separation of "Miscellaneous/General Reasons." The Army unilaterally initiated this temporary policy and the Department of Defense (DOD) and the U.S. Department of Labor (DOL) only recently became aware of this action. The DOL has been assured by Army and DOD staff that this is a one-time action that will not occur again.

3. Information. The DOL has concluded that the additional narrative reason for separation in (item (Block) 28 of DD Forms 214) listed in this section 3. **is acceptable** for UCX

RESCISSIONS ET Handbook No. 384, Second Edition, Change 1	EXPIRATION DATE Continuing
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qualifying purposes for Army Officers separated from military service for the convenience of the Government from October 1, 1994 through August 31, 1995. Consequently, DOL is amending Appendix D, page D-1 of ET Handbook No. 384, Second Edition to include the following narrative reason:

Miscellaneous/General Reasons

4. Instructions. SESAs shall review each case of Army Officers separated between October 1, 1994 and August 31, 1995, with the above narrative reason for separation on a case-by-case basis since not all Army Officers separated during this period for the reason above are covered by an early release program for the convenience of the Government. **SESAs should verify all Army Officer separations occurring during the October 1, 1994 through August 31, 1995, period with the above narrative reason for separation with the U.S. Army UCX Liaison Officer, Ms. Robin A. Hofmann, telephone, 317-543-7437.**

As required by 20 CFR 614.9(a), State law provisions applicable to claims filing as well as redetermination or reconsideration of previously denied claims are applicable to UCX claims.

5. Action Required. RAs and SESAs should ensure that this page is properly substituted as required.

6. Instructions for Handbook Maintenance.

Remove and Destroy (3/95)

Appendix D, page 1

Insert (6/95)

Appendix D, page 1

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUMI
	DATE August 23, 1995

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 7
TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES
FROM : *Barbara Ann Farmer (BAF)*
 BARBARA ANN FARMER
 Administrator
 for Regional Management
SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)

1. Contents. These ET Handbook changes transmit revised pages pertaining to the UCX program.
2. Action Required. RAs and SESAs should ensure that these pages are properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy

Page IV-21 (4/95)
 Page IV-22 (11/94)
 Page VI-19 (5/95)
 Page VI-20 (11/94)

Insert

Page IV-21 (8/95)
 Page IV-22 (11/94)
 Page VI-19 (8/95)
 Page VI-20 (11/94)

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCESYMBOL TEUMI
	DATE February 27, 1996

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 8

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : *Barbara Ann Farmer*
 BARBARA ANN FARMER
 Administrator
 for Regional Management

SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)

1. Contents. This ET Handbook change transmits revised pages pertaining to the UCX program.
2. Action Required. RAs and SESAs should ensure that these pages are properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy

Page IV-7 (4/95)
 Page IV-8 (11/94)
 Page IV-9 (11/94)
 Page IV-10 (11/94)

Insert

Page IV-7 (4/95)
 Page IV-8 (1/96)*
 Page IV-9 (1/96)*
 Page IV-10 (1/96)*

*Revised page

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUMI
	DATE June 5, 1996

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION CHANGE 9

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : *Barbara Ann Farmer*
 BARBARA ANN FARMER
 Administrator
 for Regional Management

SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX) -- Narrative Reasons for Separation

1. Contents. This ET Handbook change transmits a revised page pertaining to "Acceptable" narrative reasons for separation for the UCX program qualifying purposes.

2. Background. On April 25, 1995, ET Handbook No. 384, Second Edition, Change 1 transmitted a consolidated list of acceptable narrative reasons for separation pertaining to all branches of military service to enable SESAs to make accurate UCX eligibility determinations.

On July 19, 1995, ET Handbook No. 384, Second Edition, Change 6 transmitted information indicating that the Army informed us that **some Army officers** separated before completing their first full term of service under an early release program for the convenience of the Government from October 1, 1994 through August 31, 1995, have been given a narrative reason for separation of "Miscellaneous/General Reasons." Since that time the Army has advised us that their Voluntary Early Release/Retirement Program (VERRP) has been expanded to include separations no earlier than November 14, 1995, and no later than July 1, 1996.

RESCISSIONS ET Handbook No. 384, Second Edition, Change 6	EXPIRATION DATE Continuing
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3. Information. The DOL has concluded that the additional narrative reason for separation in (item (Block) 28 of DD Forms 214), Miscellaneous/General Reasons, **is still acceptable** for UCX qualifying purposes for Army Officers separated from military service for the convenience of the Government from November 14, 1995 through July 1, 1996. Consequently, DOL is amending Appendix D, page D-1 of ET Handbook No. 384, Second Edition to cover the above period.

The DOL has also concluded that the additional narrative reason for separation in (item (Block) 28 of DD Forms 214), Miscellaneous/General Reasons, **is not acceptable** for UCX qualifying purposes for Army Officers separated from September 1, 1995 through November 13, 1995 since they were not separated from military service for the convenience of the Government during that period of time.

4. Instructions. SESAs shall review each case of Army Officers separated between November 14, 1995 and July 1, 1996, with the above narrative reason for separation on a case-by-case basis since not all Army Officers separated during this period for the reason above are covered by an early release program for the convenience of the Government. **SESAs should verify all Army Officer separations occurring during the November 14, 1995 through July 1, 1996, period with the above narrative reason for separation with the new U.S. Army UCX Liaison Officer, Mr. Bill Porter, telephone, 317-543-7437.**

As required by 20 CFR 614.9(a), State law provisions applicable to claims filing as well as redetermination or reconsideration of previously denied claims are applicable to UCX claims.

5. Action Required. RAs and SESAs should ensure that this page is properly substituted as required.

6. Instructions for Handbook Maintenance.

Remove and Destroy (6/95)

Appendix D, page 1

Insert (5/96)

Appendix D, page 1

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUPDI
	DATE August 26, 1996

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 10

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : *Barbara Ann Farmer*
 BARBARA ANN FARMER
 Administrator
 for Regional Management

SUBJECT : **Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)**

1. Contents. This ET Handbook change transmits revised pages pertaining to the UCX program.
2. Action Required. Regional Administrators and State Employment Security Agencies should ensure that these pages are properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy

Page IV-11 (11/94)
 Page IV-12 (11/94)
 Page IV-13 (11/94)
 Page IV-14 (11/94)

Insert

Page IV-11 (11/94)
 Page IV-12 (8/96) *
 Page IV-13 (8/96) *
 Page IV-14 (11/94)

*Revised page

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUPDI
	DATE October 17, 1996

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 11

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : *Barbara Ann Farmer*
 BARBARA ANN FARMER
 Administrator
 for Regional Management

SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)

1. Contents. This ET Handbook change transmits revised pages pertaining to the UCX program.
2. Action Required. Regional Administrators and State Employment Security Agencies should ensure that these pages are properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy

Page TC-4 (11/94)
 Page IV-11 (11/94)
 Page IV-12 (8/96)
 Page IV-13 (8/96)
 Page IV-14 (11/94)
 Page IV-17 (11/94)
 Page IV-18 (11/94)
 Page IV-19 (11/94)
 Page IV-20 (11/94)
 Page IV-21 (8/95)
 Page IV-22 (11/94)

Insert

Page TC-4 (9/96)*
 Page IV-11 (11/94)
 Page IV-12 (9/96)*
 Page IV-13 (9/96)*
 Page IV-14 (9/96)*
 Page IV-17 (9/96)*
 Page IV-18 (9/96)*
 Page IV-19 (9/96)*
 Page IV-20 (9/96)*
 Page IV-21 (9/96)*
 Page IV-22 (9/96)*
 Page IV-23 (9/96)*

*Revised page

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUPDI
	DATE July 21, 1997

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 12

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : *Robert S. Kenyon*
 ROBERT S. KENYON
 Acting Administrator
 for Regional Management

SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)

1. Contents. This ET Handbook change transmits revised pages pertaining to the UCX program.
2. Action Required. Regional Administrators and State Employment Security Agencies should ensure that these pages are properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy

Page VI-21 (11/94)
 Page VI-22 (11/94)
 Page VI-23 (11/94)
 Page VI-24 (11/94)

Insert

Page VI-21 (11/94)
 Page VI-22 (7/97)*
 Page VI-23 (7/97)*
 Page VI-24 (11/94)

*Revised page

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUPDI
	DATE February 6, 1998

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 13

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : DAVID HENSON *ms [signature]*
 Director
 Office of Regional Management

SUBJECT : **Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)**

1. Contents. This ET Handbook change transmits revised pages pertaining to the UCX program.

2. Action Required. Regional Administrators and State Employment Security Agencies should ensure that these pages are properly substituted as required.

3. Instructions for Handbook Maintenance.

Remove and Destroy

Page VI-17 (11/94)
 Page VI-18 (5/95)
 Page VI-19 (8/95)
 Page VI-20 (11/94)
 Page VI-21 (11/94)

Insert

Page VI-17 (11/94)
 Page VI-18 (12/97)*
 Page VI-19 (12/97)*
 Page VI-20 (12/97)*
 Page VI-21 (12/97)*

*Revised page

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUPDI
	DATE March 19, 1998

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 14

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : DAVID HENSON *David Henson*
 Director
 Office of Regional Management

SUBJECT : **Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)**

1. Contents. This ET Handbook change transmits revised pages pertaining to the UCX program.
2. Action Required. Regional Administrators and State Employment Security Agencies should ensure that these pages are properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy

Page VI-17 (11/94)
 Page VI-18 (12/97)
 Page VI-19 (12/97)
 Page VI-20 (12/97)
 Page VI-21 (12/97)
 Page VI-22 (7/97)

Insert

Page VI-17 (11/94)
 Page VI-18 (2/98) *
 Page VI-19 (2/98) *
 Page VI-20 (12/97)
 Page VI-21 (12/97)
 Page VI-22 (7/97)

*Revised page

RESCISSIONS None	EXPIRATION DATE Continuing
----------------------------	--------------------------------------

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUPDI
	DATE April 15, 1998

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 15

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : DAVID HENSON *David Henson*
 Director
 Office of Regional Management

SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)

1. Contents. This ET Handbook change transmits revised pages pertaining to the UCX program.
2. Action Required. Regional Administrators and State Employment Security Agencies should ensure that these pages are properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy

Insert

Page IV-13 (9/96)
 Page IV-14 (9/96)
 Page IV-21 (9/96)
 Page IV-22 (9/96)
 Page IV-23 (9/96)
 Page VI-17 (11/94)
 Page VI-18 (12/97)
 Page VI-19 (12/97)
 Page VI-20 (12/97)

Page IV-13 (3/98) *
 Page IV-14 (9/96)
 Page IV-21 (9/96)
 Page IV-22 (3/98) *
 Page IV-23 (3/98) *
 Page VI-17 (11/94)
 Page VI-18 (3/98) *
 Page VI-19 (3/98) *
 Page VI-20 (3/98) *

*Revised page

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUPDI
	DATE May 30, 1998

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 16

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : DAVID HENSON *David Henson*
 Director
 Office of Regional Management

SUBJECT : **Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)**

1. Contents. This ET Handbook change transmits revised pages pertaining to the UCX program.
2. Action Required. Regional Administrators and State Employment Security Agencies should ensure that these pages are properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy

Insert

Page IV-23 (3/98)
 Page VI-17 (11/94)
 Page VI-18 (3/98)
 Page VI-19 (3/98)
 Page VI-20 (3/98)

Page IV-23 (4/98) *
 Page VI-17 (11/94)
 Page VI-18 (4/98) *
 Page VI-19 (3/98)
 Page VI-20 (4/98) *

*Revised page

RESCISSIONS None	EXPIRATION DATE Continuing
----------------------------	--------------------------------------

U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUPDI
	DATE July 9, 1998

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 17

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

**FROM : DAVID HENSON *David Henson*
Director
Office of Regional Management**

SUBJECT : Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)

1. Contents. This ET Handbook change transmits revised pages pertaining to the UCX program.

2. Action Required. Regional Administrators and State Employment Security Agencies should ensure that these pages are properly substituted as required. The address change pertaining to the U.S. Navy is not effective until July 13, 1998.

3. Instructions for Handbook Maintenance.

Remove and Destroy

Insert

Page IV-21 (9/96)
 Page IV-22 (3/98)
 Page IV-23 (4/98)
 Page VI-17 (11/94)
 Page VI-18 (4/98)
 Page VI-19 (3/98)
 Page VI-20 (4/98)

Page IV-21 (9/96)
 Page IV-22 (6/98)*
 Page IV-23 (6/98)*
 Page VI-17 (11/94)
 Page VI-18 (6/98)*
 Page VI-19 (6/98)*
 Page VI-20 (6/98)*
 Page VI-20a (6/98)

*Revised pages

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUPDI
	DATE December 9, 1998

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 18

TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES

FROM : DAVID HENSON *David Henson*
 Director
 Office of Regional Management

SUBJECT : **Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)**

1. Contents. This ET Handbook change transmits revised pages pertaining to the UCX program containing the changes incorporated in Change 2 to UIPL 3-95.
2. Action Required. Regional Administrators and State Employment Security Agencies should ensure that these pages are properly substituted as required.
3. Instructions for Handbook Maintenance.

Remove and Destroy

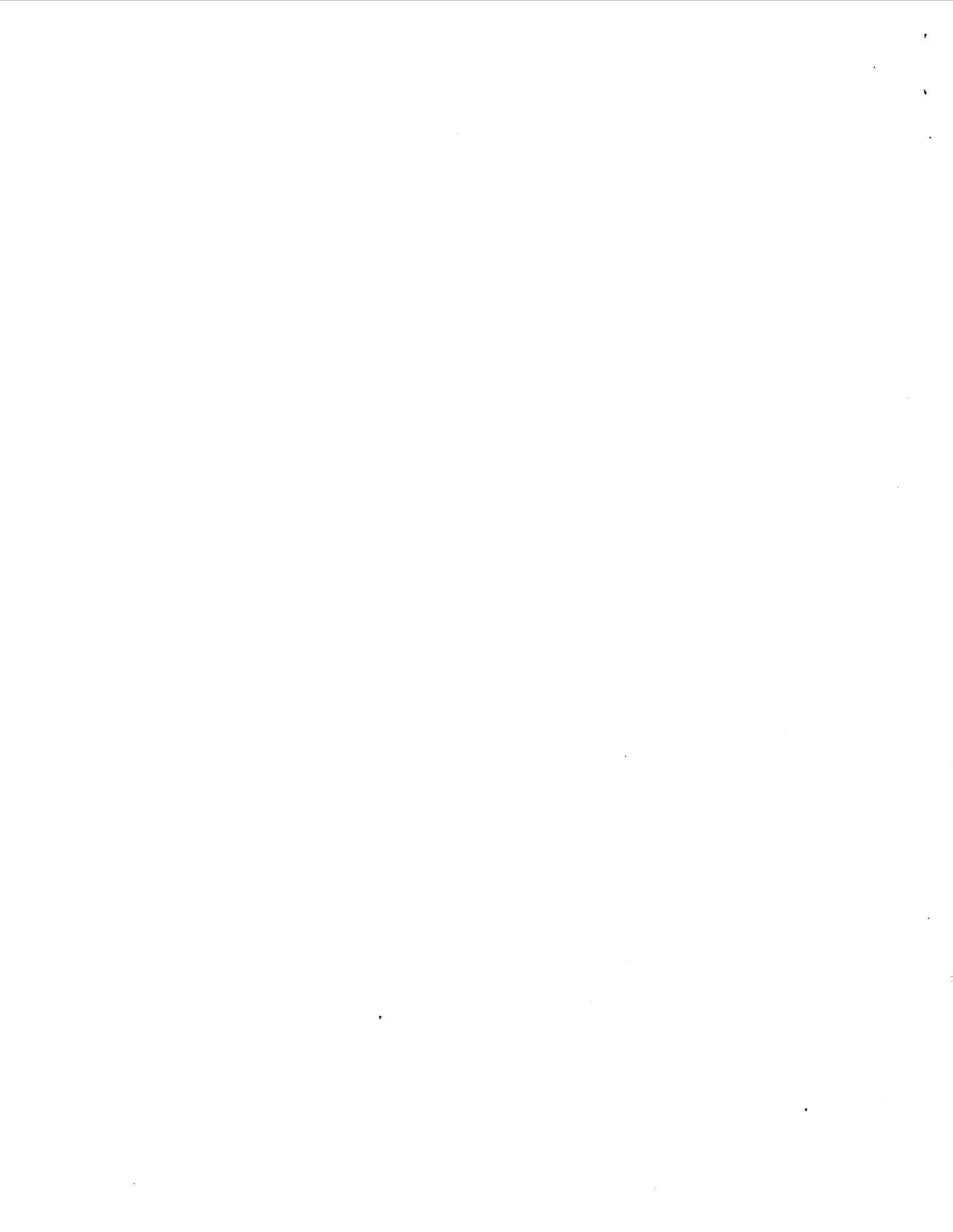
Appendix D, page D-1
 (5/96)
 Appendix D, page D-2
 (3/95)

Insert

Appendix D, page D-1*
 and page D-2* (11/98)
 Appendix D, page D-3*
 (11/98)

*Revised pages

RESCISSIONS None	EXPIRATION DATE Continuing
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U. S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL TEUPDI
	DATE March 9, 2000

DIRECTIVE : ET HANDBOOK NO. 384, SECOND EDITION, CHANGE 19
TO : ALL REGIONAL OFFICES AND STATE EMPLOYMENT SECURITY AGENCIES
FROM : LENITA JACOBS-SIMMONS 
 Deputy Assistant Secretary
SUBJECT : **Handbook on Unemployment Compensation for Ex-Servicemembers (UCX)**

1. Contents. This ET Handbook change transmits revised pages pertaining to the UCX program containing the changes incorporated in Change 3 to UIPL 3-95.

2. Action Required. Regional Administrators and State Employment Security Agencies should ensure that these pages are properly substituted as required.

3. Instructions for Handbook Maintenance.

Remove and Destroy

Appendix D, page D-1
 (11/98)
 Appendix D, page D-2
 (11/98)

Insert

Appendix D, page D-1
 (01/2000)*
 Appendix D, page D-2
 (01/2000)*

*Revised page

RESCISSIONS None	EXPIRATION DATE Continuing
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NARRATIVE REASONS FOR SEPARATION

"ACCEPTABLE" Narrative Reasons for Separation Meeting the Requirements of 5 U.S.C. 8521(a)(1)(B)(ii)(I)-(IV)

For the convenience of the government under an early release program (5 U.S.C. 8521(a)(1)(B)(ii)(I))

Medal of Honor Recipient
Completion of Required Active Service
Insufficient Retainability (Economic Reasons)
Reduction in Force
To Attend School
Holiday Early Release Program
Defective Enlistment Agreement
Erroneous Entry (Other)
Intradepartmental Transfer* (see below)
Miscellaneous/General Reasons** (see below)

Because of medical disqualification, pregnancy, parenthood, or Service-incurred injury or disability (5 U.S.C. 8521(a)(1)(B)(ii)(II))

Pregnancy or Childbirth
Parenthood or Custody of Minor Children
Conditions, not Disability
Disability, Severance Pay
Disability, Permanent
Disability, Temporary
Disability, Existed Prior to Service, PEB
Disability, Existed Prior to Service, Med BD
Disability, Aggravated
Disability, Other

Because of hardship (5 U.S.C. 8521(a)(1)(B)(ii)(III))
Surviving Member
Hardship

* Effective for separations on or after September 1, 1994.

** Pertaining only to Army Lieutenants' separations under the ANGCR I program occurring May 1, 1998 through September 30, 1998 and May 1, 1999 through September 30, 1999 and every other year thereafter for the May 1 through September 30 period. Also requires "Orders to Report" and "Orders of Release" or "Orders to Report" containing an endorsement of release to be presented to the SESA indicating the servicemember was discharged under the ANGCR I program.

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1. History of Unemployment Compensation for Ex-Servicemembers (UCX) Program. The Ex-Servicemen's Unemployment Compensation Act of 1958, Public Law 85-848, added Section 1511, which is now known as Unemployment Compensation for Ex-Servicemembers (UCX), Title XV of the Social Security Act. In 1966, Public Law 89-554 repealed Title XV, including Public Law 85-848, codifying the UCX requirements in Chapter 85, Title 5, and Section 1919, Chapter 93, Title 18, U.S. Code (These may be cited as 5 U.S.C. Chapter 85 and 18 U.S.C. 1919). In 1982, Public Law 97-362 amended 5 U.S.C. 8521 to increase the amount of active duty 90 continuous days to be considered "Federal Service" for UCX purposes, to require a 4-week waiting period before UCX benefits were payable, and to limit the duration of benefits to 13 times the weekly benefit amount (WBA).

In 1991, Public Law 102-164 amended 5 U.S.C. 8521(a) by reducing the amount of active duty in a reserve from 180 continuous days to 90 continuous days necessary to be considered "Federal service" for UCX purposes. The Act also repealed provisions of 5 U.S.C. 8521(c) which required a 4-week waiting period and a 13 times WBA maximum benefit amount.

References to Veterans' Reemployment Rights (VRR) are drawn from 38 U.S.C. 2021-2026.

2. General Legal Provisions of 5 U.S.C. Chapter 85. Under the provisions of 5 U.S.C. Chapter 85, the U.S. Secretary of Labor is authorized to issue rules and regulations as may be necessary to carry out the provisions of the Act. The implementing regulations are published at 20 CFR Part 614.

To be entitled to UCX benefits, the ex-servicemember must have performed active Federal military service. The period of active military service must have terminated under honorable conditions and meet requirements of Federal law (5 U.S.C. 8521 et seq.). Federal findings with respect to military service are final and not subject to adjudication under State law.

To establish entitlement and eligibility for UCX benefits, Federal military service and wages will be assigned to the State, including either the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands, as the case may be, in which the first intrastate or interstate claim for unemployment compensation (whether State unemployment insurance (UI), unemployment compensation for Federal employees (UCFE), UCX, or

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some combination thereof) that establishes a benefit year is filed after the most recent separation from Federal military service. When the first claim filed is an interstate claim, the wages are assignable to the agent State. **NOTE:** The benefit year established does not have to be in the State where the claim is filed. (Refer to Chapter II, page II-9 and Chapter III, page III-5.)

An ex-servicemember filing a claim for UCX benefits is subject to the same entitlement and eligibility provisions as an individual claiming benefits based on State-covered employment and wages. Except that, a State shall not apply eligibility provisions of the State UI law to UCX claimants with respect to reasons for separation from (1) active military service; or (2) a failure to seek or accept employment with a pre-service employer.

3. State's Agreement with Secretary. Under 5 U.S.C. 8502, the Secretary is authorized to enter into an agreement with each State to administer the UCX program. Except as required by the Act, Regulations and Secretary's opinions, the State is required to determine entitlement and eligibility and make unemployment compensation payments to ex-servicemembers under the same terms and conditions as it would have had their Federal military service and wages been included as employment and wages covered under the UI law of the State to which such military service and wages are assigned.

4. UCX Benefit Payments in Absence of a State Agreement. The Federal UCX law (5 U.S.C. 8503) provides that if Federal military service and wages are assignable to a State which has no administrative agreement with the Secretary, the Secretary shall administer the UCX program for ex-servicemembers filing against such service and wages and shall make determinations and payments under the same terms and conditions as would have applied under the State's law if the State had an agreement with the Secretary.

If the ex-servicemember has sufficient State covered employment and wages to establish a benefit year, the UCX payment by the Secretary shall represent only the amount by which a joint UI-UCX benefit amount exceeds the actual or potential UI benefit amount whether or not the individual has filed a claim for UI benefits.

If the claimant needs both State and Federal employment and wages to qualify, the Secretary will determine and pay the individual's entitlement based on the combined total of all base period employment and wages.

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5. State Administration of the UCX Program.

a. Coordination of UCX Activities. In order to assure that UCX operations are coordinated within the organizational framework of the State's UI program, it is recommended that an individual within the agency's central office be designated, with sufficient authority and staff assistance, to carry out the following responsibilities:

- Ensuring that appropriate UCX procedural instructions are promptly prepared and distributed both in the central and local (or area) offices.

- Making on-site appraisals on the effectiveness of, and adherence to, procedures, with particular emphasis on claims determination and payment operations.

- Developing methods to ensure the use of Federal military service and wages, when applicable.

- Making recommendations for the training of claims taking, interviewing, processing, adjudication, and appeals personnel.

- Ensuring uniform interpretation of the UCX requirements within the State agency, including the requirement to determine UCX claimants entitlement and eligibility under the same terms and conditions as apply to State UI claimants.

- Ensuring that UCX control data is transmitted via the appropriate interstate network to the LCCC immediately upon the filing of a new claim.

- Coordinating visits to military installations responsible for the separation of active military servicemembers, when considered necessary.

b. Administrative Procedures and Forms. In carrying out its responsibility to administer the UCX program, the State agency should use the same procedures and forms as apply to individuals filing under the State program, except in situations where there are Federally prescribed procedures or forms.

The following forms are Federally prescribed:

(1) ETA 841 (formerly ES 970), Request for Determination of Federal Military Service and Wages; and

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(2) ETA 843, Request for Military Document/Information for Unemployment Compensation Purposes - UCX.

State agencies are responsible for reproducing the ETA 841 and ETA 843, with the appropriate State agency organizational designation on each form. Refer to Chapter IV, Item 4.e. for authorized adaptations of these forms. **NOTE:** The Office of Management and Budget (OMB) approval numbers are no longer required on UCX program forms.

6. Finality of Federal Findings. In accordance with 5 U.S.C. 8523(b), State agencies and the Secretary must accept as final and conclusive information contained in military documents, including the DD Form(s) 214/215, or decisions furnished by the appropriate branch of the service concerning: (1) whether the person performed active military service; (2) the beginning and ending dates of each period of such service; (3) number of days lost, if any, during periods of active duty; (4) the type of discharge or release from the latest period of Federal military service, including the, "Upgraded Character of Discharge;" and (5) the narrative reason for separation. Such decisions of the military services are not subject to modification or reversal by the Secretary or a State's appellate authority.

7. Re-employment Rights of Ex-servicemembers Under Federal Statute. Federal statutes (38 U.S.C. Chapter 43) provide certain legal rights to re-employment with pre-service employers for individuals who leave employment to enter U.S. military service for extended active duty, active duty for training, and inactive duty training. These rights apply whether the individual enlisted, was inducted, or entered active duty from a reservist, voluntarily or involuntarily. Re-employment rights apply to all private employers; the executive, legislative, and judicial branches of the Federal government; all branches of the government of the District of Columbia; and the U.S. Postal Service. Such rights also may be afforded by State governments and their political subdivisions pursuant to the requirements contained in 38 U.S.C. 2021(c).

State agency employees are not expected to advise persons of their re-employment rights, but claims interviewers need to know whether ex-servicemembers have taken the steps available to them to obtain re-employment.

However, to exercise re-employment rights under Federal law, an ex-servicemember generally must apply for re-employment with the pre-service employer within 90 days after discharge or release

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from active military service or from hospitalization "continuing after discharge for a period of not more than one year" (38 U.S.C. 2021(a)). In some cases, a shorter period is provided to exercise re-employment rights. A member of a reserve component who is ordered to an initial period of active duty for training of not less than 12 consecutive weeks must exercise re-employment rights within 31 days after release from active duty or discharge from hospitalization incident to that active duty, provided hospitalization is not for more than 1 year after scheduled release from duty (38 U.S.C. 2024(c)).

Under the Federal law, the pre-service employer is required to place the ex-servicemember requesting re-employment in the job he/she would have attained had he/she not been absent in military service or a job of like seniority, status and pay. Re-employment rights in the job to which the returning ex-servicemember is entitled include the right to the seniority status which would have accrued with his/her pre-service employer, but for military service, and to promotions and pay increases and certain other advantages he/she would have received if military service had not intervened (38 U.S.C. 2021(a)(2)(B)(b)).

The above paragraphs describe some of the highlights of Federally mandated re-employment rights. However, an ex-servicemember's specific rights under Federal law must be determined in each case. If an ex-servicemember request information concerning re-employment rights or help in safeguarding such rights, the person should be referred to the nearest Local Veterans' Employment Representative (LVER). The LVER will refer the individual to the proper authorities in the State offices of the Veterans Employment and Training Service, U.S. Department of Labor.

8. Other Cooperative Arrangements With Departments or Agencies.

In addition to the agreement between the Secretary and each State agency to operate the UCX program, other cooperative arrangements with respect to the program have been entered into as follows:

a. Department of Defense (DOD). The DOD has agreed that each branch of the service will provide an individual being separated, from active U.S. military service, with general information pertaining to the UCX program at the time it issues a DD Form 214, Certificate of Release or Discharge From Active Duty. For UCX determination purposes, each branch of service also includes information pertaining to the number of days of military accrued leave for which a lump-sum payment was made and the dates of "days lost", etc., on the DD Form 214. The DOD also maintains the DOL's Federal schedule of remuneration for use in

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determining the wage credits of UCX claimants and agrees that, upon request, each branch of service, will provide a replacement DD Form 214 and essential information missing from the form.

b. Department of Justice (DOJ). The DOJ and the Federal Bureau of Investigation (FBI) have agreed with the DOL that the authority to investigate criminal fraud matters arising from and pertaining to the UCX program shall be vested in the U.S. Department of Labor's Office of the Inspector General (OIG). When fraud is detected, if prosecution is warranted, the case will be referred to the appropriate U.S. Attorney's office.

c. Louisiana Claims Control Center (LCCC). The Louisiana Department of Labor (LADOL) and the Dallas Regional Office have an agreement with the DOL National Office for the operation of the LCCC by the LADOL, on a fiscal year basis, beginning October 1 and ending September 30 of each year. The purpose of the agreement is to define the roles of the State, and the Regional and National Offices of the Employment and Training Administration, essential to the operation and maintenance of the UCX claims control function.

9. Visit to the Military Separation Installation. The purpose of a visit to a military separation installation is to ensure that the staff understands the requirements to provide correct and complete UCX program information to servicemembers at the time of their separation.

If possible, arrangement should be made to attend an exit orientation for military personnel being separated to ensure that accurate UCX information is provided.

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a. Authorizing Memorandum from Asst. Secretary of DOD.



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301

JAN 10 1980

MANPOWER,
RESERVE AFFAIRS
AND LOGISTICS
(Military Personnel Policy)

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (MCRA)
ASSISTANT SECRETARY OF THE NAVY (MRACN)
ASSISTANT SECRETARY OF THE AIR FORCE (MRACI)

SUBJECT: Visits to Military Separation Activities for Review of DD
Forms 214 Operations

Representatives of the U.S. Department of Labor and/or State Employment Security Agencies are authorized to make on-site visits to ensure for unemployment insurance purposes that military separation activities are performing the several requirements, listed below, related to issuance of DD Forms 214 required by DoD Instruction 1336.1, "Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)."

1. Promptly mailing Copy No. 5 of DD Form 214 to the U.S. Department of Labor Design Center, Baton Rouge, Louisiana, within one day of the individual's separation date.
2. Emphasizing, to individuals being processed for separation, the importance of Copy No. 4 of DD Forms 214 and 215 in obtaining veterans' benefits, including unemployment insurance; and
3. Completing appropriate items on Copy No. 5 of DD Form 214, including character of service, and dates of time lost, which are used by State Employment Security Agencies to determine a separatee's entitlement to unemployment compensation for ex-servicemen (UCX) under the Federal law, Subchapter II of 5 U.S.C. 8501, et seq. Valid DD Forms 214 must be presented in person in a local unemployment insurance office of a State Employment Insurance Office of a State Employment Security Agency in order to establish entitlement to UCX benefits.

On-site visits will be conducted as follows:

1. Representatives of the Department of Labor and/or State Employment Security Agency will make a formal written request to the separation activity for permission to make the visit. The individual(s) who will make the visit will be identified in the request which will also specify the proposed date and time for the visit.

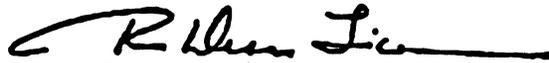
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2. The appropriate administrative authority for the military separation activity will make a prompt written reply to the above request. If the visit is authorized, the visitors will be informed specifically, as to the time and place of the visit and military personnel to contact. Also, the visitors will be informed as to what identification they will be expected to provide or obtain in order to be admitted to the separation activity.

3. At the completion of the visit, military personnel at the separation activity will be furnished a copy of the report prepared by the representative making the visit.



R. Dean Tice
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b. Frequency of Visits. The UCX program coordinator should visit each military separation installation (Air Force, Army, Coast Guard, Marine Corps, and Navy) at least once in each 2-year period. More frequent visits may be made if the State agency determines that a military separation facility does not properly complete the information on the DD Form 214 necessary to the determination of military service and wages under the UCX program. Such a facility may be identified from Item 8 of the incomplete DD Form 214s.

c. Request for Visit. To request a visit, the Officer in charge of the separation installation should be contacted. In scheduling a visit, the purpose of the visit should be thoroughly explained and a firm commitment should be obtained including the name(s) of personnel to contact.

If a military separation installation refuses to permit a State agency representative to make a UCX visit, or does not allow the representative to review pertinent military documents, the State agency should notify the appropriate ETA Regional Office, providing details of the refusal with reference the requirements of this Handbook. The problem will be resolved by the ETA Regional or National Office.

d. Preparation for Visit. The State representative should prepare and carry a copy of the memorandum, from the Office of the Assistant Secretary of Defense to all Assistant Secretaries of the branches of military service, provided in "a" above. The representative should also prepare a review outline to record the information necessary to complete a summary of the visit in accordance with "f" below.

The State representative should be prepared to present proper State agency issued identification, and should arrange to obtain military installation vehicle permits, as required.

e. Review to be Conducted. Review at least 10 copies of DD Form 214 or, if unavailable, the DD Form 214 worksheet. Some branches of service will not have a copy of the actual DD Form 214 on file at the military installation, but will have a DD Form 214 worksheet. Do not include in the review DD Form 214s issued to re-enlistees.

f. Report of Visit. The State agency representative should complete a "Summary of UCX Military Visit", and send it to the National Office, via the appropriate ETA Regional Office within 15 days after the visit. A copy of the report is also to be sent to the military installation visited.

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(1) Facsimile.

SUMMARY OF UCX MILITARY VISIT

State of _____

Date of Visit: _____

Name of Military Installation:
Location:

Name and Title of
Military Personnel Contacted:

Name and Title of RO/SESA
Persons Who Made the Visit:

1. After review of DD Forms 214 and discussion with military separation installation's personnel, answer the following questions, "Yes" or "No".

a. Separatees informed at the time of release from active military service of their UCX rights and responsibilities?..... _____

b. If exit orientation was attended, was the UCX information given the separatees adequate and accurate? . _____

c. Were they informed that Copy No. 4 of DD Form 214 is needed, if separatees apply for UCX benefits? _____

d. Is DD Form 214 issued to each individual separated from any period of active military service, including active duty for training (ACDUTRA) or full-time training duty (FTTD), for 90 days, and for less than 90 days if separated due to a service-incurred injury or disability, as provided by DOD Instruction 1336.1? _____

e. Were individuals who "...served under special active duty for training programs..." of 90 days or more for the National Guard or Reserves issued DD Forms 214 as required by DOD Instruction 1336.1, (1/6/89)? _____

2. How many cases were the following items not completed?
Total Number Reviewed:..... _____

a. Character of Service..... _____

b. SSA Number..... _____

c. E, W, or O grade..... _____

d. Entry and separation dates..... _____

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10. UCX Program Funding. Public Law 97-362, the Miscellaneous Revenue Act of 1982, amended the UCX law (5 U.S.C. 8509) and requires military departments to reimburse the cost of UCX benefit expenditures. The primary reason for this change was to encourage military departments to assume responsibility for managing UC expenditures. P.L. 96-499 also established within the Unemployment Trust Fund the "Federal Employees Compensation (FEC) Account."

The FEC Account operates as a revolving Account. State agencies are required to requisition funds from the FEC Account to cover anticipated benefit payment needs for all UCX claimants and report such payments for subsequent billing to Federal military agencies. Quarterly, UIS requests reimbursement from military agencies based on the expenditure information reported and certified by the States. On a quarterly basis, each military agency reimburses the FEC Account the amount of benefits that have been paid to their employees or former employees.

a. Requisitioning Funds from the FEC Account. States are required to requisition funds via electronic requests to the Financial Management Services, Trust Funds Branch, U.S. Department of the Treasury. To prevent the build up of excessive balances in local banks, requisitions and transfers of funds should be made on a daily basis.

11. Quarterly Billing of Benefits Paid. To maintain the FEC Account and ensure that there are adequate funds available for the States to drawdown, Federal agencies must reimburse benefits paid to former employees to the FEC Account in a timely manner. The State agency, in turn, is responsible for paying UCFE and UCX benefits to the claimant and for reporting these quarterly benefit payments to the National Office in a timely manner. The ETA 191, Statement of Expenditures of Federal Funds for Unemployment Compensation for Federal Employees and Ex-service-members (UCFE/UCX) (Refer to ET Handbook No. 401 for reporting instructions.), is used by each State to report to the National Office the quarterly summary of UCX expenditures and adjustments and the detail of benefit charges and adjustments by specific Federal agencies. This report is the source document of the Unemployment Insurance Service's (UIS's) bill to military agencies for UCX benefits paid.

Upon receipt of the quarterly ETA 191 reports, UIS aggregates by Federal agencies the reported benefit charges and adjustments from all States and bills accordingly. The NO also certifies to the U.S. Department of the Treasury the total amounts due from each department and agency. Each military agency reimburses quarterly benefit charges by depositing the amount billed into the FEC Account.

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12. Providing Information to Military Agencies. Pursuant to the Secretary's authority under 5 U.S.C. 8509(f), State agencies will continue to provide appropriate payroll offices of military agencies with a copy of all determinations, consistent with the requirements of Sections 6662 and 8692, Part V of the ES Manual, including appeal decisions, that are now provided to a private employer. State agencies will provide detailed benefit payment data, which supports the charges/credits contained in Section B of the ETA 191, to the military agencies listed in the Unemployment Insurance Program Letter entitled, "Directory of Federal (Civilian and Military Agencies Requesting Quarterly UCFE and UCX Detailed Benefit Payment Data."

13. Record Maintenance.

a. UCX Records - Contents, Identification, and Availability. State agency record(s) should contain sufficient information to substantiate all entitlement and eligibility determinations. Accounting records should be detailed enough to properly account for UCX funds requisitioned and to provide the necessary information for preparing fiscal reports to the U.S. Department of Labor.

Records for the UCX program should be clearly identifiable from records of other compensations programs (i.e. UI, UCFE, etc.) and must be available for examination and audit by such Federal officials as the Department of Labor may designate, or as may be required by law. This includes officials of the Department of Labor, the Inspector General for the Department, and the General Accounting Office.

b. Checks and Records of Payment.

(1) Documentation Supporting Payment. A payment from UCX funds must be supported by a copy of the check, by a register, or similar document clearly identifying the UCX claimant by name, social security number, and by the amount charged to UCX funds. Checks need not be identified as UCX payments.

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(2) **Undelivered and Unclaimed Checks.** Controls and records of undelivered and unclaimed UCX checks returned to the State agency should identify checks for UCX separately from other checks issued by the agency. Such controls and records should be detailed enough to properly account for funds by the State agency.

The State agency will cancel any UCX benefit checks which are not presented for payment within 1 year after the issue date. The amount of the canceled check will be credited to the State agency's account for UCX funds and reported on the ETA 191 as a credit. If a check replacement request is subsequently received, the State agency will reissue the check and charge the payment appropriately.

14. Statistical Reporting. The Unemployment Insurance Service (UIS) of the ETA National Office requires the SESAs to submit many of its reports electronically.

It is the policy of the UIS to assure accuracy, uniformity, and comparability in the reporting of statistical data derived from State unemployment insurance operations through State adherence to Federal definitions of reporting items, use of specific formats, observance of reporting due dates, and regular verification of reporting items.

UCX claimant activity is submitted by SESAs in the following reports:

- a. ETA 539 Report, Weekly Claims and Extended Benefits Trigger Data;
- b. ETA 5159, Claims and Payment Activities.
- c. ETA 5130, Benefit Appeals Report.
- d. ETA 207, Nonmonetary Determinations Report.
- e. ETA 218, Benefit Rights and Experience.
- f. ETA 227, Overpayment Detection/Recovery Activities.

Reporting requirements pertaining to UCX electronic submittals of the ETA 539, ETA 5159, ETA 5130, ETA 207 and ETA 218 are contained in ETA Handbook No. 401. Reporting instructions for preparing Form ETA-227 may be found in ES Manual, Part III, Chapters 5600-5799 and Chapters 12400-12402.

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15. Disposal of UCX Records. The U.S. Department of Labor has the authority to transfer accountability for UCX program records to the State agency upon request. Once authorized, unless revoked, the accountability transfer applies to each UCX record 3 years after final action on the claim. Accordingly, each hardcopy UCX record will be transferred to State agency accountability 3 years after final action, including appeals or court actions, on the claim. Accountability for such documents may be transferred in less than 3 years after final action, if the State microfilms the records in accordance with the microfilming standards provided in Item 16 below. The date of final action on overpayment records, fraudulent or nonfraudulent, is the date the overpayment is written off, according to requirements published in Chapter V of the Handbook.

After the transfer of accountability, the State agency will follow its State law for disposing of all wage and benefit records and related documents.

16. Standards for Microphotographing Records. The following Standards to apply microfilming UCX records.

a. Standards. To dispose of originals when reproducing permanently valuable records:

(1) The integrity of the records will be preserved on the copies. This implies that copies will adequately substitute for original records in serving the purpose for which they were created or maintained. The term "integrity of the records" means--

(a) Copies will be so arranged, identified, and indexed that a document or component of a record series can be located with reasonable facility; and

(b) Copies will contain all significant record detail needed for probable future reference.

(2) The film stock used in making photographic or microphotographic copies, and their processing, will comply with the appropriate specifications for permanent records.

(3) Provisions for preserving, examining, and using copies of original records will be adequate.

(4) Whenever the agency deems that the original photographic or microphotographic negative or master reproducing copy of permanently valuable records is deteriorating or will deteriorate through use or other causes, the agency will duplicate a copy for its own use.

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b. Safeguards. The U.S. General Services Administration has stated that positive microfilm remains preserved without defects occasionally found on negative microfilm. Therefore, State agencies are urged to examine their stored microfilm, especially negatives, on a sample basis to determine if defects have developed. Defects include small red or yellow spots, concentric light and dark rings, and lightening or darkening of individual letters or lines of print.

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1. Evidence of Federal Military Service and Wages. Each individual released or discharged from active military service receives a DD Form 214, Certificate of Release or Discharge from Active Duty or NOAA Form 56-16, Report of Transfer or Discharge, if formerly employed by the National Oceanic and Atmospheric Administration, except that, Air Force regulations (AFR 35-6(C3)) precludes such issuance if the servicemember immediately reenlists in the Air Force (See section 2.b. below). The NOAA Form 56-16 is used by the State agency in the same manner as the DD Form 214 for determining entitlement to UCX benefits. (NOTE: Any future reference to DD Form 214 also applies to the DD form 215, when appropriate, and the NOAA Form 56-16).

In most cases, the DD Form 214 provides all of the information necessary for the State agency to determine if the ex-servicemember has federal military service and wages for the purpose of Federal law (5 U.S.C. 8521 et. seq.) and for completing a UCX claim's determination.

A military discharge certificate or other military certificate of service will not be used in lieu of a DD Form 214 to establish UCX eligibility. A UCX determination may be issued ONLY upon presentation by an ex-servicemember of:

- DD Form 214; or
- "orders to report" and "orders of release"; or
- "orders to report" containing an endorsement of release.

However, before issuing a determination based on the "orders" listed above, the State agency should make every effort to obtain a copy of the DD Form 214, including the use of Form ETA 843 to obtain a copy or to obtain the information necessary to the determination of a UCX claim.

The "orders" standing alone will not be the sole basis of a tentative or final UCX determination. The State agency will make the appropriate determination based on the branch of service response to the ETA 843. If the State agency does not receive a response to the ETA 843 within 30 days, it should request approval of the use of such "orders" from the ETA National Office, through the appropriate ETA Regional Office. The ETA Regional Office will submit such a request to the ETA National Office, Attn: TEUMI.

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a. Criteria for Determining Federal Military Service, except for Members of the National Guard or Reserve. The DD Form 214 for each period of active military service should be examined if one or more days of such service occurred on or after the beginning of the base period that applies to the individual's claim to determine if the period of service met the following requirements of 5 U.S.C. 8521 for Federal military service. To qualify for weeks of unemployment beginning on or after November 15, 1991, the ex-servicemember must have been:

(1) On active duty in the Armed Forces (Army, Navy, Marine Corps, Air Force, or Coast Guard) or the Commissioned Corps of the National Oceanic and Atmospheric Administration. However, members of the National Guard or other Reserve Component of the Armed Forces must have been on continuous active duty in a reserve status for 90 days or more;

(2) Discharged or released under honorable conditions, and if an officer, did not resign for the good of the service; and

(3) Discharged or released after completing the first full term of active military service which the individual initially agreed to serve, unless, the individual was discharged or released before completing such term of active service for one of the following reasons:

(a) The convenience of the Government under an early release program;

(b) Because of medical disqualification, pregnancy, parenthood, or service-incurred injury or disability;

(c) Because of hardship; or

(d) Because of personality disorders or inaptitude after having continuously served for 365 days or more.

b. Criteria Determining Federal Military Service for Members of the National Guard or Reserve. To meet the criteria for Federal service under the Act, the period of military service by a member of the National Guard or other Reserve Component must equal 90 days or more of continuous active duty in a reserve status in the Armed Forces, and the individual must be discharged or released under honorable conditions after completing the first full term of service (unless separated earlier for one of the reasons stated in Section 1.a.(3) above). Note: There is no reserve component for Commissioned Officers of the National Oceanic and Atmospheric Administration.

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NOTE: In some instances, an individual may join a branch of the Armed Forces in a reserve capacity without having previously served a first full term of active service. In such case, to meet the criteria for Federal service under the Act, the ex-servicemember must have at least 90 continuous days of active duty in a reserve status and be discharged or separated from that active duty in a reserve status under honorable conditions (and, if an officer, did not resign for the good of the service). The provisions of 5 U.S.C. 8521(a)(1)(B) relating to completion of the first full term of active service which the individual initially agreed to serve, is not applicable because the ex-servicemember does not have a first full term of active service.

Item 2 of DD Form 214 will show if the person was a member of the National Guard or Reserve component of the Armed Forces by the following entries:

Army : ANGUS or USAR
Air Force : ANGUS or USAFR

Navy : USNR
Marines : USMCR
Coast Guard : USCGR

Members of the National Guard can be activated into the armed forces of the United States under Title 10 or 32 of the U.S.C. for full time active duty in a reserve status. When activated under Titles 10 or 32 of the U.S.C., the National Guard members must meet the UCX qualifying requirements contained in the first paragraph of this Section 1.b. of Chapter II. Specifically, activation in the armed forces under Titles 10 or 32 § 316 or 502-505 is considered "active duty in a reserve status" for UCX qualifying purposes (see Section 1.a.(1) of this Chapter II).

NOTE: National Guard members may be involved in State counter-drug activities provided for in 32 U.S.C. 112. However, 32 U.S.C. only authorizes the Secretary of Defense to provide Federal funding for such State counterdrug activities of the National Guard under specified circumstances, and 32 U.S.C. 112 does not provide authorization for the activation of the National Guard into "active duty in a reserve status" in the armed forces of the U.S. In many cases, however, a National Guard member participating in State counterdrug activities provided for in 32 U.S.C. 112 are also activated under 32 U.S.C. 316 or 502-505. In such case, the National Guard member would be eligible for UCX following his/her separation from such active duty in a reserve status if he/she met the qualifying requirements contained in the first paragraph of this Section 1.b. of Chapter II.

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2. Determination of Federal Military Service.

a. Determination of Federal Military Service, Except Former Air Force Members (5 U.S.C. 8521(a)). When a "first claim" is filed, the State agency will reproduce and keep a copy of the ex-servicemember's DD Form 214 in its files. If the ex-servicemember has lost or misplaced the DD Form 214, such information may be obtained from the LCCC or the appropriate branch of the Armed Forces.

If the individual is not identified as a member of the National Guard or Reserve Component, the State agency will determine if the individual was separated from military service after completing a "full term of service" (or if earlier, under one of the conditions outlined above in Item 1.a.(3) above. However, if the claimant was a member of the National Guard or Reserve Component, the SESA will determine whether the claimant completed 90 days or more of continuous active duty.

To qualify a Federal military service for UCX purposes, the ex-servicemember must have been separated "under honorable conditions" and if an officer, must not have resigned "for the good of the service." The State agency will be guided by the narrative reasons for separation shown in item 28 of the DD Form 214, as well as rulings and interpretations of what constitutes Federal military service by the Department of Labor published in Appendix "D".

However, if an ex-servicemember has completed a first "full-term" of active military service and was honorably discharged, a nonconforming narrative reason in item 28 of DD Form 214 will not be considered in determining the individual's eligibility for UCX benefits. In this situation, the nonconforming narrative reason is not applicable. When the individual has met the first "full-term" of active military service requirement, consideration of the nonconforming narrative reasons is precluded. Therefore, if Item 12c of DD Form 214 shows "net service this period" for enlisted personnel of 4 or more years for Navy or Marines, the ex-servicemember will be credited with completing a first "full term of service" and information in item 28 will be ignored. Additionally, any combination of "prior active service" in item 12d of DD Form 214 and "net active service in current period" shown in item 12c that meets or exceeds the 4 years requirement, as applicable, constitutes a "constructive completion" of a "first full term of active service" for the Navy and Marine Corps. Hence, in such cases, item 28 will also be ignored.

The constructive completion concept applies only to members of the regular armed services in active duty service. It does not apply to reservists who are on active duty in a reserve status.

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Active service (regular) and active duty (reservist) cannot be combined for UCX qualifying purposes.

In order for active service to qualify as "Federal service" for purposes of UCX, there are two requirements for service in a regular status and three requirements for service in a reserve status. For either type of active service to qualify, regular or reserve, it must be honorable and meet the preconditions contained of 5 U.S.C. 8521(a)(1)(B). For reserve service to qualify it must fulfill both of these minimum conditions that qualify an individual who has served on active duty in a regular status, and third a condition, relevant only if the other two are fulfilled, is that the individual must have served on active duty in a reserve status for a continuous period of 90 days or more.

For example, a person who first enlists in the armed forces and begins to serve on active duty in a regular status. That person will have satisfied the requirements of "Federal service" for UCX even if separated honorably for a service-incurred injury after 60 days. Those 60 days of service would meet the definition of "Federal service" in section 5 U.S.C. 8521(a)(1). Alternately, an Academy cadet commissioned as Reserve officer who initially agreed to serve on active duty for 5 years but failed to complete those 5 years and was not released for a satisfactory reason under 5 U.S.C. 8521(a)(1)(B) would not meet "Federal service" definition because this person failed to complete the first full term of service he/she initially agreed to serve. This person's active duty in a reserve status does not qualify as "Federal service" for UCX, regardless of the fact that it was for more than 90 continuous days.

The statute is clear that to fall within the definition of "Federal service", one must meet the requirements of § 8521(a)(1), § 8521(a)(1)(A), and § 8521(a)(1)(B)(i) or (B)(ii). An officer need only meet the requirements of §§ 8521(a)(1) and 8521(a)(1)(A); the requirements of §§ 8521(a)(1)(B)(i) and (B)(ii) are inapplicable on the basis that they do not appear to address the specific terms under which officers serve. Officers serve under a commitment or obligation for a specified period of time after commissioning, and this period of service is tantamount to the first full term of service "which the individual initially agreed to serve" within the meaning of § 8521(a)(1)(B). For an officer who had no prior service, such an initial period of service is in all respects the equivalent of the first term of enlistment of an enlisted member.

NOTE. The U.S. Army also informed this Department that it has advised all transition centers to provide information on DD Forms 214 concerning if the servicemember completed his/her first term of entitlement.

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The U.S. Army, U.S. Air Force, U.S. Navy and the U.S. Marine Corps have informed this Department that the term of enlistment may range from 2 to 6 years.

b. Determination of Federal Military Service and Wages for Former Air Force Members (5 U.S.C. 8521(a)). Air Force regulation (AFR 35-6(C3)) precludes the issuance of DD Forms 214 if former Air Force members immediately re-enlist. Additionally, DD Forms 214 that the Air Force issued in the past did not clearly identify the applicable enlistment periods and have frequently been found to provide insufficient basis for the State agency to accurately determine if the initial enlistment periods were completed under honorable conditions.

Effective October 1, 1993, the Air Force is entering, in block 18 of DD Form 214, the statement: "Member (has)(has not) completed first full term of service.

The Air Force has agreed to add two items in block 18 of DD Form 214 to assist State agencies in making accurate determinations. It has added "Term of Current Enlistment" to enable a State agency to know for what period (2 - 6 years) the former Air Force member enlisted, and "Continuous Active Military Service Date," which will indicate how long an individual served without a DD Form 214. Block 12a will show the Date Entered Active Duty This Period, and Block 12b, will show Separation Date This Period. From these two entries the State agency can determine if the former Air Force member completed the last enlistment. Whether the enlistment was for a 2 - 6 year period will show under TERM OF CURRENT ENLISTMENT. By comparing this information with Blocks 12a and 12b, the State agency can determine if the full enlistment period was completed. Block 12d, TOTAL PRIOR ACTIVE SERVICE, shows the total of all active military service before the most recent enlistment period.

3. Reviewing the Character of Service. The character of service is shown in item 24 of the DD Form 214 (item 12 of NOAA Form 56-16), as appropriate, e.g., "Honorable", "Under Honorable Conditions (General)", "Under Other Than Honorable Conditions", "Bad Conduct" or "Dishonorable". In some instances, the character of service will be shown as "Uncharacterized," "Drop from rolls" or "Void enlistment" which means that the person's discharge was "Under Honorable Conditions."

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The later three types of separations in the preceding paragraph are always "Uncharacterized" and are considered to be under honorable conditions unless otherwise noted in item 24 of the DD Form 214. These entries mean that the individual's character of discharge was "Under Honorable Conditions" and that the time in service was too short for a fair rating. The phrases "Entry Level Separation," "Drop from rolls" and "Void enlistment" are deviations from the term "Uncharacterized" which is an authorized entry in item 24 according to the DOD Instructions Number 1336.1. However, we have been informed by the DOD that those three phrases and "Uncharacterized" are synonymous and are therefore considered to be separations under honorable conditions.

An ex-servicemember separated by the military under any of the above "Uncharacterized" conditions must have completed less than 180 days of continuous military service to receive an uncharacterized separation. Any ex-servicemember that has been on active duty in excess of 180 continuous days of military service should be issued a characterization by the military.

An ex-servicemember's period of service should be considered Federal military service under the Act, if the individual's separation was "honorable", or "under honorable conditions" if the narrative reason(s) for separation shown on the DD Form 214 conforms to narrative reasons for separation supplied by the DOD.

If the narrative reason for separation does not conform, the military service cannot be used as the basis of UCX entitlement as it does not meet the requirements of 5 U.S.C. 8521(a).

For an ex-servicemember's discharge to be determined to have been due to "inaptitude," the word inaptitude must be included in the narrative reason for separation.

If the "Narrative Reason For Separation," is blank or appears incomplete, the State agency should send a Form ETA 843 to the appropriate branch of service requesting the specific reason for separation or clarification. For example, if only the word "unsuitability" is shown on DD Form 214, an ETA 843 should be sent to ascertain if the narrative reason for separation was "unsuitability due to inaptitude."

4. Use of Form ETA 843, UCX Request for Military Information.

The ETA 843 should be used to obtain a copy of the DD Form 214, to obtain or clarify the "narrative reasons for separation," or to obtain or clarify any other information omitted from or shown on the DD Form 214. A copy of the DD Form 214 should be attached to the ETA 843, and any question asked by the State agency should be specific and complete. The branch of service should not be asked a general question such as whether or not the ex-servicemember is eligible for UCX benefits under 5 U.S.C. 8521 et seq.

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(The military agency is not authorized to make that determination.)

If the narrative reason for separation shown on the DD Form 214 is clear and complete, an ETA 843 should not be used to obtain additional information simply because the claimant disagrees with the narrative reason provided. Under such circumstances, the claimant should be informed that the Federal law provides that the findings of the branch of service must be accepted as "final and conclusive" for determining UCX entitlement (5 U.S.C. 8523-(b) (1) (A)) and 20 CFR 614.23).

SESAs are reminded that they should not apply their own interpretation in determining whether or not a narrative reason for separation is acceptable. The narrative reason for separation should be either "acceptable" or "unacceptable" based on the lists of acceptable narrative reasons for separation provided by DOL.

NOTE: Questions about the acceptability of narrative reasons for separation should be addressed to the National Office, Attention: TEUMI, through the appropriate Regional Office.

a. Ex-servicemember Disagrees with Narrative Reason For Separation. If the claimant disagrees with the military findings, it is his/her responsibility to obtain a correction to the DD Form 214 or DD Form 215 from the appropriate branch of the military service. However, in accordance with 20 CFR 614.22, the State agency should assist the claimant with requesting a correction and advise the claimant of UCX claims filing procedures.

5. Assignment of Military Service and Wages with "First Claim". All Federal military service and wages, including lag period service and wages, must be assigned to the State in which a "first claim" (UCX) is filed in accordance with 5 U.S.C. 8522. The "first claim" is defined as the first claim filed, for unemployment compensation, after separation from the latest period of Federal military service which establishes a benefit year. Therefore, the "first claim" may be an intrastate or interstate UI, UCX, UCFE or Joint claim. When the "first claim" filed is an interstate claim, as the State in which the claim is filed, the agent State is the State of assignment for the UCX wages.

The State to which military service and wages are assignable is responsible for sending an inquiry to the LCCC to ensure that wages were not previously assigned. However, the assignment of the military service and wages is not complete unless a benefit year is established. Therefore, if an intrastate or interstate claim does not result in a benefit year, the military service and wage assignment will be corrected, as appropriate.

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The rules for assignment of Federal military service and wages must be followed literally. There is no authority for considering a claim filed in or from (by telephone, Voice Response System, etc.) one State to be "constructively" filed in another State, even though the claimant may speak directly with claims interviewers in the other State or staff of the other State are located in the office of the filing State. The State of filing is the State in which the claimant is physically located. The rules of assignment are not affected by where military service was performed or where the separation from active duty occurred.

To record all assignable Federal military service and wages, the State agency must obtain information from the claimant concerning each period of active military service to determine if any day of the period of service (including any day of military accrued leave, for which a lump-sum payment was made, as allocated under the State law to such period) occurred on or after the beginning of the base period applicable to the claim, including the paying State base period on a combined wage claim.

The State of assignment is responsible for establishing controls to ensure that military service and wages (including a lump-sum payment for military accrued leave, as allocated under State law) assigned to the lag-period will be posted to wage files or are otherwise recorded and available for use on a second benefit year. The lag period covers all employment and wages subsequent to the base period of the "first claim".

a. Intrastate "First Claim", including Combined Wage. When the first claim filed subsequent to the latest period of active duty is an intrastate claim, it may be any of the following types: UI, UCFE, UCX, or joint UCX/UI/UCFE combinations, depending on the type of wages in the base period, including a combined wage claim. However, if the claim results in a benefit year, it is a "first claim" for wage assignment purposes. Therefore, Federal military service and wages must be assigned to the applicable State even if they are not used in the monetary determination (i.e., none of the Federal military service and wages are in the base period of the first claim).

b. Interstate "First Claim", including Combined Wage. When the "first claim" is an interstate claim, it may be any of the program types shown above for intrastate claims except UCX only. In such cases, assignable Federal military service and wages must be assigned to the applicable State (filing/agent) even if they are not used in the monetary determination. An interstate UCX only "first claim" is impossible because the Federal military service and wages are not assignable the liable State. However, the "first claim" may be an interstate combined wage claim, if the individual is monetarily ineligible in the filing

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State on the basis of combining all employment and wages (service and wages) in the base period. In such cases, the Federal military service and wages are transferrable to the paying State for use in the determination of a combined wage claim. **Note:** The transferring (in this case, also the agent) State should submit a UCX claims control inquiry to the LCCC to ensure that the wages have not been previously assigned.

6. Permanence of the Military and Service Assignment. When Federal military service and wages are assigned to one State, they cannot be assigned to another State, unless the original assignment was in error (e.g., no benefit year was established) or they are transferred for use on a combined wage claim in accordance with the requirements of 20 CFR 616. Refer to Appendix A, 5 U.S.C. 8522.

7. Disagreement on the State of Assignment. When there is disagreement between States concerning the State of assignment and it cannot be resolved, the case will be referred to the appropriate ETA Regional Office for final resolution by the ETA National Office.

8. Correcting Improper Use of UCX Service and Wages. Incorrect use of Federal military service and wages, to establish a benefit year, is generally caused by the claimant failing to advise the claims interviewer that a prior claim had been filed after separation from military service and the State agency's failure to send a timely inquiry to LCCC. Incorrect assignments must be corrected in the manner described below.

a. When no Benefit Payments have been Issued. If no benefits have been paid, the incorrect State should cancel the benefit year and file a backdated substitute initial claim(s) and continued claim(s), as appropriate, under the Interstate procedures against the correct State (Refer to ET Handbook No. 392). The correct State must be advised of the reason for the backdating and provided with copies of all prior factfinding, including ETA 841s (ES-970s) and ETA 843s.

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"Weekending dates" on duplicate claim forms should represent the same weeks as those shown on the original claim forms, but the "date claim taken" should be the date duplicate claim forms were prepared. A statement of improper filing by the incorrect State will be sufficient justification for the correct State to honor the predated claim(s). The following statement should be included under "Remarks" on the initial claim:

"Federal military service and wages were assigned to _____ (State) _____ in error. The service and wages were previously assigned to your State with the claim filed _____."

The correct State will honor the backdated claim and take the necessary actions to determine the individual's eligibility effective with the date the claim was originally filed.

b. When Benefit Payments Have been Made by the Incorrect State. The procedure outlined in "a" above should be followed. Any payments made by the incorrect State should be transferred to the correct State. If the benefits paid by the incorrect State exceed the amount the correct State would have paid, the resulting excess amount should be established as an overpayment to be collected or waived, according to the law of the correct State. The correct State will not reimburse the incorrect State for any UCX overpayments which are charged to the claimant and collected by the correct State. The recovered Federal funds will be credited by the correct State to the FEC Account and Federal agency on the quarterly ETA 191 report. An adjustment payment will be issued by the correct State to rectify any underpayment by the incorrect State.

IMPORTANT NOTICE: If a State is found to have failed to implement a system which ensures timely inquiries to the LCCC, as required by 20 CFR 614.1(d)(2)(ii), and such failure consistently and systematically results in wages being incorrectly used by that State, the State may be determined out of compliance with the Federal requirements and required to assume liability for improperly disbursed Federal funds and reimburse the FEC account, under the provisions of 20 CFR 614.1(d)(4)(ii), without a transfer of payments to the correct State.

(1) **Letter of Transmittal by Incorrect State of Assignment.** The letter of transmittal to the correct State of assignment should contain as much of the following information as is pertinent:

- (a) Claimant's name and social security number;
- (b) Date of new claim;

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- (c) Effective date of claim in incorrect State;
- (d) List of attachments (such as copies of ES-970);
- (e) Any factfinding and eligibility determinations;
- (f) Monetary determination, showing State UI and UCX portions separately by week;
- (g) List of payments made showing State UI and UCX portions separately by week.

9. Withdrawal of UCX Claim . Under the UCX equal treatment requirements at 20 CFR 614.9(a)(1), the provisions of the applicable State law governing claims filing apply to UCX claims, except where the result would be inconsistent with the provisions of Federal law, 20 CFR Part 614 or the UCX operating procedures issued by the U.S. Department of Labor (the Department). Accordingly, the Department has determined that if a State law permits a regular UI claim to be withdrawn (and the benefit year cancelled), then the same rule applies to a UCX claim.

When a UCX first claim is withdrawn under provisions of State law, the individual's Federal military service and wages to that State are no longer properly assigned, in accordance with the requirement of 20 CFR 614.8(b). Consequently, the wage assignment must be cancelled in accordance with the procedures provided in "a" below.

It is important to note that the UCX equal treatment requirements at 20 CFR 614.13 also provide that claimants' rights to UCX shall be protected from waiver in the same manner and to the same extent as the rights of persons to State UI are protected under the applicable State law. This equal treatment includes protection against discrimination and obstruction in regard to seeking, applying for, and receiving any right to UCX.

a. Cancellation of Wage Assignment. To cancel the wage assignment when a first claim is withdrawn, the SESA will immediately send a subsequent inquiry, containing the identical information as the original inquiry plus an entry of the "CANCEL" in fields 63-68, to the LCCC. Refer to Item 10 below for complete instructions.

10. Communicating Inquiries to the Louisiana Claims Control Center (LCCC). For each new "first claim" taken, without regard to the program type and whether intrastate or interstate, the State agency will transmit a UCX inquiry to the LCCC, in the prescribed format, to verify the validity of the DD Form 214 presented and simultaneously record a wage assignment. Note:

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Records to cancel a wage assignment are transmitted together with inquiry/assignment records.

Therefore, an inquiry will be sent to the LCCC for each claimant with active military service in the base period of the "First claim" filed, whether or not the claimant presents a DD Form 214 and whether or not a UCX determination was made. Only one claims control inquiry should be submitted to the LCCC with respect to UCX service and wages for each new claim. However, if the "first claim" involves the use of UCFE employment and wages, an inquiry pertaining to the UCFE wages must also be sent.

State agency staff communications with the LCCC should be handled solely by designated members of the State's central office staff, preferably the UCX/Federal Programs Coordinator or backup. Local office staff will not communicate directly with the LCCC.

a. Log of UCX Transactions with LCCC. State agencies will keep a log on all transactions made to the LCCC as shown below:

LOG OF UCX TRANSACTIONS BETWEEN SESA AND LCCC

I	II	III	IV	V	VI	VII	VIII	IX
LAST NAME AND SSN	TRANS- MITTAL NO.	DATE OF CLAIM	DATE INQUIRY SENT TO LCCC	METHOD OF TRANS- MITTAL (e.g. INTERNET OR MAGNETIC TAPE)	DATE(S) FOLLOWUP(S) SENT	DATE SESA REC"D	TIME INTRVL (VII- IV)	CMTS

b. Preparation and Transmission of DD Form 214 Inquiries. For each "first claim" filed, the State agency will immediately prepare the prescribed 80 character inquiry record for transmission to the LCCC via the designated Communications Network/or by magnetic tape. Each UCX inquiry/cancellation record will contain the State code, Local Office Number, the UCX claimant's Social Security Number (SSN) as shown on the DD Form 214, the claimant's first name, middle initial, and last name, any other SSN belonging to the claimant, Separation Date from Active Military duty, Indicator as to copy of DD Form 214 presented to the local office, and Branch of Service, Date of Initial Claim Filing, and when appropriate, "CANCEL" (entered in the fields 63-68) to delete a previous inquiry/assignment from the LCCC files.

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(1) LCCC Inquiry Record Format.

File: SESA UCX Claims Control Inquiry/Cancel Request

Record: SESA-INQ-REC

Field No.	Position From To	Picture	Data Element Name
1		99	STATE-CODE
2		X(4)	Local-off (ALPHANUMERIC)
3		9(9)	SSN -214 (NORMAL ORDER)
4		A(12)	NAME-FIRST (ALPHA, LEFT JUSTIFIED)
5		A	NAME-INITL (ALPHA OR SPACE)
6		A(17)	NAME-LAST (ALPHA, LEFT JUSTIFIED)
7		9(9)	SSN-OTHER (NUMERIC > or = ZEROS)
8		9(5)	SEP-DATE (YYDD SEP'D ACTV DTY)
9		9	DD 214 COPY (0 THRU 8)
10		99	SERV-BRANCH (01 THRU 05)
11		A(6)	CANCEL-REQ (SPACES or "CANCEL")
12		9(6)	DTE-CLM-FLD (YYMMDD or ZEROS)
13		A(6)	FILLER (SPACES)

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(2) DATA ELEMENT DESCRIPTION FOR LCCC INQUIRY RECORD

FIELD LABEL	DESCRIPTION
1 STATE CODE	is a two byte field indicating the standard MAIPS/FIPS State code.
2 LOCAL OFFICE	is a four byte alphanumeric field indicating the code assigned to the local office in which the UCX claim was filed.
3 SSN-214	is a nine byte numeric field representing the Social Security Number under which the DD Form 214 was issued.
4 NAME FIRST	is a 12 byte alphabetic field for the claimant's first name.
5 NAME-INITIAL	is a one byte alphabetic field for the claimant's middle initial.
6 NAME-LAST	is a nine byte alphabetic field for the claimant's last name.
7 SSN-OTHER	is a nine byte numeric field indicating any other Social Security Number possibly assigned to the claimant. This field should otherwise be zero filled.
8 SEP-DATE	is a five byte numeric field indicating the actual date of separation from active duty as shown on the DD Form 214. It is represented in Julian date format (YYDDD).
9 DD 214-COPY	is a one byte numeric field indicating what copy, if any, was presented to the local office at initial claim filing and ranges from a value of 0 through 8.
10 SRVC BRCH	is a two byte numeric code indicating which branch of service from which the claimant was discharged. 01 - ARMY 04 MARINE CORPS 02 - NAVY 05 COAST GUARD 03 - AIR FORCE
11 CANCEL	is a six byte alphabetic field. If a SESA desires to cancel a UCX inquiry, complete field numbers one through six and field numbers eight through 12. The contents of field number 11 should only be used to "Cancel" and it should only be used to cancel an existing inquiry. <u>This field should be left blank (space filled) for transmittal of regular inquiries.</u>
12 DATE CLAIM FILED	is a six byte numeric field representing the date the initial UCX claim was filed. The date is in YYMMDD format. Otherwise, this field should be zero filled.
13 FILLER	is a six byte field which is space filled.

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(3) Electronic Transmission of Inquiries to LCCC. To ensure timely transmissions and to promote timely responses, electronic transmissions should be scheduled no less frequently than daily. Such transmissions may be created and accomplished without staff intervention and do not require any accompanying transmittal correspondence.

To electronically transmit inquiries, the State agency is required to create records in the required format using the required Job Control Language (JCL).

(4) Using Magnetic Tape to Send Inquiries to LCCC. When a State agency uses magnetic tape to transmit UCX inquiries to LCCC, a transmittal form will be completed and included with each submission. The transmittal form will contain the name of the State agency's UCX liaison, State Code, State name, number of records transmitted, a transmittal number and additional information pertaining to the tape as follows:

- (a) OS/Standard Label or None.
- (b) DSN (Data Set Name).
- (c) VOL=SER=(tape number)
- (d) BPI of tape (1600 or 6250).
- (e) Number of records on tape.
- (f) Machine type which generated the tape.
- (g) Date of transmission/mailing.

All tapes must have external Labels and should be sent in protective cases which will be returned to the State agency.

The tape Transmittal Number for each State will be a number beginning with one (1). For example, typical transmission numbers are 93-1, 93-2, 93-3, .. 93-365, 94-1.

Electronic transmission is the preferred method to send inquiries to the LCCC since it results in more timely responses. All SESAs are encouraged to utilize this method.

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(5) Facsimile of Transmittal Form.

(State)
EMPLOYMENT SECURITY AGENCY

(transmittal date)

TO: Louisiana UCFE/UCX Claims Control Center
1001 North 23rd Street
P.O. Box 94246, Capitol Station
Baton Rouge, Louisiana 70804-9246

		-			
--	--	---	--	--	--

(transmittal No.)

FROM: Mr./Mrs./Ms. _____

(sender's name)

_____ (phone #)

_____ (State code)

--	--

SUBJECT: TRANSMITTAL OF UCX-DD 214/UCFE CLAIMS CONTROL INQUIRIES

Enclosed are UCX/UCFE claims control inquiries for _____
(State name)

Specifications:

Each record is 80 bytes.

Number of UCX inquiry records: _____

Number of UCX Cancel Requests: _____

Number of UCFE inquiry records: _____

Number of UCFE Cancel Requests: _____

(TOTAL RECS)

Record length (LRECL) is 80 characters.

Block size (BLKSIZE) is 200 records.

Record format (RECFM) is fixed blocked (FB).

Tape label is (check one): OS/Standard () or None ().

Data Set Name (DSN) is: _____

Tape Number (VOL=SER=) is: _____

Machine type is check one: IBM/compatible (), UNISYS (),
Other () specify: _____

Attached are copies of both the external and tape label.

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11. Non-receipt of Timely Response to Inquiry. If the State agency does not receive a reply from the LCCC within 10 days of its initial request, it will send a follow-up request by mail and a photo copy of the claimant's separation document. Follow-up requests will identify the claimant by Name, SSN, and batch number and date. Additional follow-ups should be made by telephone (800-535-8100). Follow-ups inquiries to the LCCC will be sent to:

U.S. Department of Labor
Louisiana Claims Control Center
P.O. Box 94246, Capitol Station
Baton Rouge, Louisiana 70804-9246

12. The LCCC Replies to Inquiries. When the LCCC receives an electronic inquiry from a State agency, it will prepare and transmit an electronic response that includes the claimant's pay grade, service branch, character of service, entry date, separation date, days lost, and number of days accrued leave back to the State agency. The LCCC will also advise the State agency of any prior inquiries pertaining to the same claimant.

When the LCCC receives a request for DD Form 214 information via magnetic tape, the LCCC will prepare a computer generated response that contains the same information included in the electronically transmitted record and forward to the State agency via mail.

When the LCCC asks the appropriate branch of the Armed Forces why Copy No. 5 of a UCX claimant's DD Form 214 was not sent to the LCCC, it will attach Copy No. 4 of the claimant's DD Form 214 to its inquiry. If the military branch can supply the document or the DD Form 214 information needed, the LCCC will immediately provide such information to the appropriate State agency.

13. State Agency's Handling of LCCC Responses. It will be the State agency's responsibility to resolve differences in DD Form 214 information received from the LCCC and the DD Form 214 information furnished by the claimant. In some instances, these differences may not have any material consequences on the UCX claim or benefit payments. When there is an obvious material difference, the SESA should promptly request from the LCCC that the DD Form 214 information that it received from the LCCC be verified against the information shown on Copy 5 received by the LCCC. If material differences remain, it is the State agency's responsibility to request verification of "questioned items" from

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the appropriate branch of the military service by use of Form ETA 843. If the material differences remain after reply from the military service, the possibility of a fraudulent claim should be considered.

If the ex-servicemember present Copy No. 4 and the SESA makes an inquiry to the LCCC to verify the legitimacy of Copy No. 4 and the LCCC indicates that Copy No. 5 contains all of the same required data elements, the SESA should accept the information as factual and immediately proceed to issue the ex-servicemember a UCX determination and, if appropriate, pay UCX benefits provided all the State eligibility requirements are met.

If the ex-servicemember alleges he/she lost or was not issued Copy No. 4 of the DD Form 214, he/she should be requested to present his/her Copy No. 1 of the DD Form 214. Copy No. 1, a condensed form, is issued to all separatees. Copy No. 4, a complete profile, is also issued to all separatees.

If the ex-servicemember presents only Copy No. 1 of his/her DD Form 214 or is unable to present either Copy No. 1 or Copy No. 4 of his/her DD Form 214, he/she should be informed that it is his/her responsibility to obtain a legible and complete Copy No. 4 of DD Form 214 in order that a determination may be made as to his/her entitlement to UCX benefits. However, the SESA should also explain that it will attempt to assist him/her to establish a UCX claim by initiating a request to the LCCC. UCX benefits may be paid based upon receipt of the several essential items of DD Form 214 information from the LCCC.

If the LCCC has no record of his/her military service or cannot otherwise obtain it, the SESA may further assist the ex-servicemember to obtain Copy No. 4 by using the procedures outlined in Chapter VI, page VI-19 of this Handbook. The claims interviewer should also explain to the claimant that no UCX benefits can be determined or paid pending receipt of Copy No. 4 of DD Form 214 from the military branch or the claimant or receipt of equivalent determination information from the LCCC. Under such circumstances the claimant should be encouraged by the SESA to continue to report to the local claims office to continue to file continued claims in order to protect any benefit rights to which he may later be determined to be entitled.

If pertinent data on a UCX claimant's DD Form 214 (Copy No. 1 or No. 4.) was omitted or is questionable, the SESA should, at the time the UCX claim is filed, assist the claimant to obtain omitted data or to verify data using procedures outlined in Chapter VI of this Handbook.

NOTE: Any data omitted from either Copy No. 1 or Copy No. 4 of a DD Form 214, will also have been omitted from the LCCC's Copy No. 5 of DD Form 214 since all copies are part of a manifold set.

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If the ex-servicemember did not present Copy No. 4 of DD Form 214, the SESA should not send any further inquiry to the LCCC. Instead, the SESA should attempt to help the ex-servicemember to obtain Copy No. 4. The LCCC will not initiate liaison with the Armed Forces to obtain its Copy No. 5 for a UCX claimant who did not present a DD Form 214 when attempting to file a claim.

When a State agency is informed that a prior inquiry has been made by the same or another State, it will immediately ascertain if the claimant's UCX wages were already properly assigned. If so, the State should ensure that wages previously used are not used again as the basis of another UCX determination. In the case of a prior inquiry by another State, the State agency will immediately contact any other State(s) and take appropriate action to ensure which State is the correct State of assignment. An ex-servicemember's UCX wages are considered correctly assigned to the State in which he/she filed a "first claim" since the latest separation from Federal military service whereby a benefit year was established. If the States involved cannot resolve the correct State of assignment, the UCX case should be referred to the appropriate ETA Regional Office for transmittal to the National Office for final resolution.

If the LCCC responds that it has no DD Form 214 Copy Number 5 in its files, the State agency will send a photocopy of the claimant's DD Form 214 to the LCCC within 2 weeks of being so notified. The LCCC will not initiate liaison with the Armed Forces to obtain its Copy No. 5 for a UCX claimant who did not present a DD Form 214 when attempting to file a claim.

If the SESA is not informed promptly of the results of the LCCC follow-up with the Armed Forces, the SESA will send a follow-up to the LCCC within 30 days of the date it sent the reproduced copy of the claimant's DD Form 214 to the LCCC. Additional follow-ups should be by telephone.

14. State Agency Follow-up On LCCC Request for DD Form 214 From Armed Forces. If the State agency is not informed promptly of the results of the LCCC follow-up with the Armed Forces, the State will send a follow-up to the LCCC within 30 days of the date it sent the reproduced copy of the claimant's DD Form 214 to the LCCC. Additional follow-ups should be by telephone.

If the DD Form 214 cannot be verified by information supplied by the Armed forces within 45 days after the State agency sent a reproduced copy to the LCCC, the State agency will stop its follow-up with the LCCC. It will be the State agency's responsibility to determine, to the extent possible, whether the ex-servicemember had in fact presented a legitimate DD Form 214.

CHAPTER III - TAKING AND PROCESSING CLAIMS

1. Intrastate Initial Claim - New. A claimant cannot be in an active duty status with a branch of the U.S. Armed Forces and file a "first claim" for purposes of UCX benefits or UCX wage assignment, even though the unemployment insurance laws of some States do not require a claimant to be unemployed at the time an initial claim is filed. A "first claim" for such purposes may be filed only after separation from the most recent period of service.

To identify potential UCX claimants and/or the need for assignment of Federal military service and wages, the State's UI new claim form should contain a question asking about prior military service, e.g., "Have you performed any active military service in the last (number) months?" (This question could be combined with a question concerning civilian employment with the Federal Government.) When this question is answered "yes", the claims interviewer should obtain a legible, Copy 4 of the ex-servicemember's DD Form 214 (and corresponding DD Form 215, if any) and identify all periods of active military service in the claimant's base period and the lag period. The claimant's social security number should be verified from a signed social security card. If the social security card is not signed, the claims interviewer should ask the claimant to sign the card. The claims interviewer should question the claimant about pensions, disability payments, and his/her application for, or intention to apply for, certain educational benefits under laws administered by the Department of Veterans Affairs.

A claimant who qualifies for UCX benefits in one State and is also separately eligible for UI or UCFE in another State, may elect to file an intrastate UCX claim or an interstate claim against the separate eligibility under the other State's law or file under the Interstate Arrangement for Combining Employment and Wages (hereafter referred to as combined-wage claim (CWC)). The claims interviewer should discuss these options with the claimant and allow the claimant to make the choice. If the claimant chooses to file under the CWC program, the "first claim" may be an interstate combined wage claim if the claimant is monetarily ineligible in the filing State on the basis of combining. See Items 10 and 11 of this Chapter and Refer to ET Handbook Nos. 392 and 399.

2. Required DD Form 214 Validation Against UCX Claims
Control at LCCC. State agencies are required by 20 CFR 614.1(d)-(2)(ii) to use in a timely manner, the DD Form 214 validation

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crossmatch with the LCCC. If it is found that a State agency is not using the validation crossmatch with the LCCC, the Secretary may require the State reimburse the Federal funds under the provisions of 20 CFR 614.1(d)(4)(ii).

For each new "first claim" taken, without regard to the program type and whether intrastate or interstate, the State agency will electronically communicate a UCX inquiry (or send a machine readable inquiry via magnetic tape) to the LCCC, in the prescribed format, to verify the validity of the DD Form 214 presented and simultaneously record a wage assignment.

Therefore, an inquiry will be sent to the LCCC for each claimant with active military service in the base period of the "First claim" filed, whether or not the claimant presents a DD Form 214 and whether or not a UCX determination is made. Only one claims control inquiry should be submitted to the LCCC with respect to UCX service and wages for each new claim, except, in cases where the claimant has two or more social security numbers.

3. Additional and Reopened Claims. Additional and reopened claim forms and procedure used for State UI claims should be used for taking and processing additional and reopened UCX claims, as appropriate. Such claim forms should be identified as UCX.

Additionally, if the claimant had intervening civilian employment with a branch of service, the Form ES 931 (Refer to ET Handbook No. 394) will be used to obtain the reason for separation. If under the State UI law, receipt of a lump-sum payment for accrued leave would cause a denial or reduction of UCX benefits, the claimant's Standard Form 50 should be reviewed to determine if such a payment was received.

4. Weeks Claimed. Continued claim forms and procedures used for State UI claims will also be used for taking and processing continued UCX, or joint claims involving UCX benefits, except that the continued claim must also contain the following certification:

"I have not applied for, and I am not receiving a subsistence allowance for vocational rehabilitation training, or a survivor's or dependent's educational assistance allowance or special assistance for the educationally disadvantaged from the Department of Veterans Affairs (38 U.S.C. Ch. 31 & 35)."

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This certification may be printed on or attached to the form. If the State uses electronic filing procedures (e.g., Voice Response System, etc.), a question(s) which satisfies the requirement for the above certification must be included in the record of the claim certification. Depending on the manner in which the certification is made, further factfinding may be necessary to determine if the claimant has applied for or is receiving disqualifying income.

5. Partial or Part-Total Benefits. The State's UI law, rules and regulations to which military service and wages are assigned, or to which such service and wages are transferred, apply to UCX claimants who are partially unemployed. Earnings not used in computing weekly State UI benefit payments for less than fulltime work under a State law are also not used in computing weekly UCX benefit payments. The State's provisions for rounding benefit payments to an even dollar amount also applies to UCX benefits.

If the payment is from a joint claim, the amount of UCX benefits payable for the week represents the same ratio to the total amount paid as the UCX wages represent to the total base period wages used in the monetary determination (i.e., if the base period wages are \$6,000 State-UI and \$4,000 Federal-UCX, the ratio of the claimant's Federal base period wages to total amount of all his/her base period wages is 2/5 or 40 percent. Therefore, the UCX portion is 40 percent of the partial benefit payment.).

6. Benefits Rights Information for UCX Claimants. The procedure used for a State UI claimant will also be used for conducting a benefit rights interview (BRI) for a claimant filing a UCX or joint claim involving UCX benefits. In addition to the information furnished to State UI claimants, for each new UCX claimant, the BRI information should include, orally or in writing, at the time of the new claim or later at a timely benefit rights interview, the additional information listed below:

a. An explanation of the method of determining Federal military wages based on the Federal Schedule of Remuneration (Refer to Chapter IV, page IV-14 of this Handbook);

b. The effect of the receipt of an allowance on entitlement to UCX benefits, e.g., subsistence allowance for vocational rehabilitation training, or a war orphan's (or widow's) educational assistance allowance, payable by the Department of Veterans Affairs;

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c. How all Federal military service and wages are assigned to the State in which the UCX claim is filed (whether or not a benefit year is established in that State), and about the possibility of using unused UCX employment and wages for a later claim;

d. That the Federal findings of the branch of service are final and must be accepted by the State and its administrative appellate authority as correct, and that only the branch of service may issue a corrected DD Form 214 (5 U.S.C. 8523(b));

e. That the ex-servicemember may request correction of information contained on the form DD Form 214 from the branch of service when he/she considers such data incorrect or incomplete;

f. As pertinent, depending on the application of State law, the following items should also be included: the effect of, a lump-sum payment for accrued leave, retirement, educational assistance allowances, and disability payments, on entitlement/eligibility determinations.

7. Information Pamphlet. A UCX Information Pamphlet should be given to each UCX claimant or the State agency should include adequate information concerning the UCX program in its regular claimant information pamphlet. If the UCX information pamphlet is prepared separately, it should include information needed under the State's law to file for weeks of unemployment compensation and, at a minimum, the additional information outlined above for the BRI.

8. Conducting UCX Eligibility Review Interviews. The same forms and procedures used for claimants filing for State UI will also be used for conducting ERP interviews for claimants filing UCX, or joint claims involving UCX, except as described in this section.

Each claimant will be asked about school attendance and the possible receipt of subsistence allowances for vocational rehabilitation training or a survivor's or dependent's educational assistance allowance or special assistance for the educationally disadvantaged from the Department of Veterans Affairs. If State law provides that education assistance allowances provided under the Veterans Readjustment Assistance Act of 1966, as amended (38 U.S.C. Ch. 34), are disqualifying or deductible from UCX benefits, such claimants will be asked about receiving such allowances.

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States that deduct U.S. military and veterans' retirement and pension payments or other private or governmental pensions from benefits should also ask UCX claimants about a change in the status of any such payments (e.g., receipt, discontinuance, or change in rate, after filing new, additional, or reopened claims).

9. Transferring UCX Claims. Transfer of UCX claim records within a State should be done according to regular State procedures. When a UCX claimant moves to another State, the claim will be handled according to interstate procedure as published in ET Handbook No. 392.

10. Interstate UCX Claims. The standard interstate claim forms and procedures for claims filed under the Interstate Benefit Payment Plan, published in ET Handbook No. 392, will be used for filing interstate UCX claims.

a. Interstate Initial Claim - New. An interstate initial UCX new claim will rarely occur. The claimant will have to be separately eligible against a State (including the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands) other than the filing State based on previously assigned UCX wages.

A claimant who has sufficient military service and wages to qualify for UCX benefits in one State (State A), and also sufficient UI and/or UCFE employment and wages in another State (State B), may choose to file the UCX claim against State A or a UI/UCFE claim against State B or a combined-wage claim; in any case, intrastate or interstate rules and procedures apply. Following the interstate initial claimstaking procedures as published in ET Handbook No. 392, the agent State will complete the interstate initial claims application and other necessary documents and properly identify the type of claim as UCX. If the claimant has a copy of the DD Form 214 at the time of filing, a copy should be attached to the initial claim. In the "Remarks", the agent State should include a statement of why the claim is filed as an interstate claim, e.g., "Service and wages assigned to your State at the time of the first benefit-year". The agent State will also electronically communicate the initial claims data using a TC-IB1.

The liable State will process the claim under its procedures. If the wages are not stored on the wage file, the liable State must

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review its records or the DD Form 214/215/Form ETA 841 and post the appropriate wages to its file. Note: No request to the LCCC is necessary when the subsequent claim as the wages were previously assigned at the time of the "first claim".

b. Interstate Initial Claim - Additional and Reopened.

Regular interstate procedures will be followed by the agent State in taking an additional or reopened UCX claim. When a break in the claims series has occurred, the agent State will question the claimant to determine if an additional or reopened claim is to be filed.

(1) Additional. An additional interstate claim is a claim filed by an interstate claimant within the existing benefit year established by the liable State after a break in the continued claims series due to intervening employment. Individuals filing additional claims will be asked about all intervening employment, including active U.S. military service and receipt of lump-sum payments for military accrued leave. If intervening active military service has occurred, obtain a copy of the individual's DD Form 214/215 for the liable State's review. If the individual is receiving a pension, information concerning any change in the status of such payments after establishing the benefit year should be provided to the liable State.

(2) Reopened. A reopened interstate claim is a claim filed by an interstate claimant within the existing benefit year established by the liable State after a break in the claims series not due to intervening employment. This designation is also to identify the first claim filed in a new agent State within the existing benefit year when there was no intervening employment. These claims will be handled under the regular interstate procedures.

c. Interstate Weeks Claimed. Regular interstate weeks claimed procedures will followed for UCX or joint (UI-UCX, UCX-UCFE or UI-UCX-UCFE) claims.

d. Benefit Rights Information for Interstate Claimants. Each interstate UCX claimant must be provided with the regular benefit rights information for interstate claimants and the additional information on UCX as outlined in Item 6 of this Chapter.

e. Eligibility Review of Interstate Claimants. The regular interstate procedure for selecting claimants for eligibility

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reviews and for conducting interviews applies to a claimant filing UCX or joint (UI-UCX, UCX-UCFE, or UI-UCX-UCFE) claims. State's eligibility review questionnaires should ask if there has been any change in the claimant's receipt or non-receipt of VA allowances, retirement pay or pensions since the initial claim was filed.

11. Combined Wage Claims.

a. Use of UCX Wages. When a claim is filed under the combined wage arrangement, all available military service and wages in the base period of the paying State must be used in the determination to the same extent and in the same manner as State-covered employment and wages. The State to which such service and wages are assigned may use or transfer for use, all or part of such service and wages, as appropriate, in a combined-wage benefit determination. If the State to which the wages are assigned is not the paying State on a combined wage claim, the paying State may request a transfer of military service and wages even if such service and wages are not in the base period of the transferring State.

When the UCX first claim is an interstate combined wage claim, military service and wages are assigned to the State in which the claim is filed and transferred to the paying State. In such case, the State of assignment, should submit an inquiry to the LCCC. When the filing State has issued an ineligible determination and no benefit year is established, the State will cancel the wage assignment with a subsequent LCCC cancellation record.

On the initial claims form, enter information for active U.S. military service in reverse chronological order, by separation dates, as shown in item 12b of the claimant's DD Form(s) 214, if one or more days occurred after the beginning of the State's base period for the effective date of the claim filed, whether intrastate, including combined or interstate. If the first claim is filed as an interstate combined wage claim, record all the military service and wages occurring on and after the beginning of the base period of the "paying State". In some instances, only day(s) of military accrued leave for which a lump-sum was paid, as allocated under law of the State of assignment, will occur in this period.

To request a transfer of UCX wages, the paying State should prepare a TC-IB4 in the usual manner and identify the request as pertaining to UCX wages by placing an "X" in military field.

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If the military wages were not stored on its wage file at the time of assignment, the transferring State will locate its copy of the claimant's DD Form 214 (or request a copy from the claimant, if necessary) and other necessary documents to determine which service and wages are available for transfer. Note: Military service and wages that have been previously used in the determination of entitlement may not be used or transferred for use on a combined wage claim.

b. Determination of Combined Wage Claims. When a monetary determination is issued on a Joint UCX/UI/UCFE claim, the paying State will send a TC-IB5 to the transferring State to advise the State of the disposition of the transferred wages. If the wages are used, the potential benefit charges that will accrue (to the Federal agency) as a result of the transferred wages will be shown.

If the wages are not used, the wages will be returned to the transferring State for restoration to its files as available for use.

c. Determination and Billing of Federal Share of Combined Wage Benefit Cost. When military service and wages are used in the determination of combined wage entitlement, Federal cost will be determined according to procedure outlined in Chapter II. The Federal benefit cost will not be included on the Statement of Benefits Paid, Form IB-6, to obtain reimbursement from the transferring State. The paying State will charge the Federal share directly to the appropriate Federal agency using the ETA 191.

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1. Initial Claim - New. A new UCX claim is a request for determination of eligibility for unemployment compensation for ex-servicemembers. This claim may be a UCX only claim based on Federal military service and wages, or a joint claim based on a combination of Federal military with Federal civilian, or State-covered employment and wages. Under the UCX equal treatment requirements at 20 CFR 614.9(a)(1), the provisions of the applicable State law governing claims filing apply to UCX claims, except where the result would be inconsistent with the provisions of Federal law, 20 CFR Part 614 or the UCX operating procedures issued by the U.S. Department of Labor (the Department).

It is important to note that the UCX equal treatment requirements at 20 CFR 614.13 also provide that claimants' rights to UCX shall be protected from waiver in the same manner and to the same extent as the rights of persons to State UI are protected under the applicable State law. This equal treatment includes protection against discrimination and obstruction in regard to seeking, applying for, and receiving any right to UCX.

A claimant who qualifies for UCX benefits in one State and also separately eligible for UI, UCFE, etc. in another State, may elect to file the UCX claim or to file against the separate eligibility under the other State's law or file a combined-wage claim. The first UCX claim filed after a period of Federal military service will result in Federal military service and wages being assigned to the State in which the claimant is physically located at the time the claim is filed if a benefit year is established. However, Federal military service and wages may be transferred for use on a combined-wage claim.

In determining entitlement, if the ex-servicemember also worked for a military service as a civilian, a Form ES-931 will be used to request for UCFE wage and separation information.

a. Using the Proper Copy of the DD FORM 214 to Establish Eligibility. The DD Form 214 is a multi-copy form with eight (8) copies to a set. The State agency should use Copy No. 4 of DD Form 214 to complete the State forms or Form ETA 841 (ES-970) and issue a UCX determination. If the claimant states that he/she has lost or was not issued Copy No. 4 of DD Form 214, he/she should be asked to provide a copy of Copy No. 1 as evidence of potential UCX eligibility.

Copies Nos. 1 and 4, are issued to all separatees. However, Copy No. 1 alone may not be used as the basis of a UCX determination.

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Copy No. 4, provides the information necessary to a determination of UCX entitlement/-eligibility.

The State agency should request and utilize Copy No. 4 whenever possible. However, the State agency may use a certified copy of Copy No. 2, 3, 6, 7, or 8, from the claimant, or a Copy No. 5 from the LCCC, as an official copy for making UCX eligibility determinations. However, in all cases, the requirements and procedures for verification of the DD Form 214 information with the LCCC are the same as if using Copy No. 4.

If possible, the State agency should base a UCX determination on a partially completed DD Form 214 supplemented by credible claimant statements certified on the Form ETA 841 (Form ES-970) if the missing information is not potentially disqualifying. A Form ETA 843 requesting military verification of the information is needed. However, the State agency should make a tentative UCX monetary determination and issue benefit payments, as appropriate, while awaiting a reply.

NOTE: If an ex-servicemember presents an original Copy No. 2, 3, 6, 7, or 8, the State agency should immediately use the Form ETA 843 to verify that the issuance of the "original" Copy, because the military normally issues a certified copy of one of these copies rather than an original.

If the ex-servicemember cannot present any of the appropriate copies of DD Forms 214, he/she should be informed that it is his/her responsibility to obtain a legible and complete Copy No. 4 or certified Copy 2, 3, 6, 7, or 8 of DD Form 214 to support a UCX determination. However, the State should advise the claimant that it will submit a inquiry to the LCCC. Entitlement and eligibility for UCX benefits will be based on Copy 5 of DD Form 214 made available by LCCC.

The claimant should also be advised of the preliminary use of military "orders to report" and "orders of release"; "orders to report" containing an endorsement of release. However, if the LCCC has no record of a claimant's service and is unable to provide Copy 5, the State agency should help the claimant obtain a DD Form 214 by using the Form ETA 843.

The State agency should encourage the claimant to continue to look for the necessary form(s) and advice the claimant that the UCX determination will be delayed until the necessary information is available. The claimant should be encourage to continue to

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file necessary claims, while the determination is pending, in order to protect benefit rights.

If an ex-servicemember reports that the DD Form 214 was lost or misplaced, in addition to using the Form ETA 843 to request a copy, the claimant should be advised that he/she may be able to obtain a duplicate DD Form 214 from:

(1) The Department of Veterans Affairs Regional Office, if the he/she filed a claim for disability benefits before separation (in any case, VA counselors will help the claimant in this matter); and

(2) The county clerk or the local Bureau of Vital Statistics, if it was registered.

2. Determination of Monetary Entitlement. Any UCX wages used as the basis of a monetary determination must meet the criteria for Federal military service under the Act, as outlined in Chapter II. By prior ruling, days of excess leave are ignored when determining Federal military wages. Although, in some instances, the number of days or the dates of excess leave may be shown in Item 18, "Remarks, of DD Form 214, neither days nor dates of excess leave will be recorded on Form ETA 841 (Form ES-970).

If entries on the Form ETA 841 show UCX service and wages in the State's base period, such service and wages will be included in the person's monetary determination to the same extent that the applicable State's law requires the use of all base period employment and wages with respect to UI claims. All such employment and wages must be used even if the inclusion causes ineligibility or reduces the duration and/or the weekly amount of benefits to which the claimant would otherwise be entitled.

a. Determining Rate of Pay and Total Base-Period Wages. The monthly, weekly, and daily rates of pay for each grade (e.g., E-1, E-2) is determined from the Federal Schedule of Remuneration in effect at the time the ex-servicemember files the "first claim" as defined by 20 CFR 614. The pay grade held at the time of separation from the most recent period of Federal military service must be used to determine base period and lag period wages, whether or not the claimant served in more than one grade during or following the base period of the claim. For example, if the claimant's pay grade was E-2 during the period of service in the State's base period and the claimant was promoted to pay grade E-3 during the State's lag period, and separated at the

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higher grade, the claimant's rate of remuneration for pay grade E-3 is used in determining monetary entitlement even though the E-3 pay grade was not held during the State's base period.

Military wages are paid based on 30 days in a calendar month regardless of the number of actual days in the month. Thus military service which begins or ends on various dates of a 31-day or 29-day month must be treated for base-period wages as follows:

(1) Service beginning in 31-day month	<u>Entry Date</u>	<u>Service Credited for Month</u>
	August 16	15 days
	August 30	1 day
	August 31	None
(2) Service beginning in 28-day month	<u>Entry Date</u>	<u>Service Credited for Month</u>
	February 1	1 Month (30 days)
	February 16	15 days
	February 27	4 days
	February 28	3 days
(3) Service ending in 31-day month	<u>Separation Date</u>	<u>Service Credited for Month</u>
	August 15	15 days
	August 30	1 Month (30 days)
	August 31	1 Month (30 days)
(4) Service ending in 28-day month	<u>Separation Date</u>	<u>Service Credited for Month</u>
	February 1	1 day
	February 15	15 days
	February 27	27 days
	February 28	1 month (30 days)

Accordingly, to determine wages for assignment and use in the monetary determination, months, weeks, and days of creditable Federal military service, as shown in item 26 of Form ETA 841, are multiplied by the appropriate rates of remuneration as follows: the monthly rate of remuneration will be used for each full calendar month of service regardless of the actual number of days in the month; the weekly rate for 7 days is calculated at 7/30th of the monthly rate; and, the daily rate is 1/30th of the

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monthly rate shown in the Federal Schedule of Remuneration. The daily rate applies to all periods of less than 7 days.

b. Allocation of Military Accrued Leave. Branches of the Armed Forces report the number of days of military accrued leave, for which a lump-sum payment was made, on DD Form 214, on other military documents, or in replies to State agency requests for such information. However, this leave is not considered allocated to any particular period. If this information is not on DD Form 214 (or a corresponding DD Form 215), and is necessary under the applicable State UI law for proper processing of a UCX claim, State agencies should use an ETA 843 to request the information. Days of military accrued leave (or Federal military wages related to such days) will be allocated by the State agency in the same manner as for State UI.

In general, lump-sum payment for days of military accrued leave made to a servicemember in connection with the separation from active U.S. military service must be treated the same as a lump-sum payment for accrued leave (or equivalent) is treated under the applicable State unemployment insurance law when made by an employer to a worker in connection with separation from private employment. Except that, the Federal Schedule of Remuneration must be used to compute the amount of the lump-sum payment based on the number of days of military accrued leave. The actual amount of the lump-sum payment received by the servicemember for accrued leave is disregarded.

Additionally, the days of accrued leave for which a lump-sum is paid are not part of an active service period and must not be used in determining if a claimant has the 90 continuous days of Federal military service required of members of the National Guard and Reserve to qualify for UCX benefits or the full term of active service required to qualify under 5 U.S.C. 8521(a)(1)-(B)(ii)(IV).

Additionally, the days of accrued leave for which a lump-sum is paid are not part of an active service period and must not be used in determining if a claimant has completed his/her first full term of service under honorable conditions, separated for a specified reason(s) prior to completing his/her initial term of service and were separated under honorable conditions required to qualify under 5 U.S.C. 8521(a)(1)(B)(ii)(IV).

If the State uses "weeks" or "credit weeks" in determining entitlement, no more than 13 such weeks per calendar quarter of Federal military service may be allocated or used. Additionally,

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States will not allocate more than 7 days of Federal military service (or military accrued leave), to any one week.

When the State law allocates lump-sum leave payment to the last day of active military service, the amount of Federal military wages based on military accrued leave or combined active duty and military accrued leave, allocated to a calendar quarter may exceed the monthly rate under the Federal Schedule of Remuneration. Similarly, the total wages for the combined amount allocated to a week (or equivalent), may exceed seven times the derived daily rate (or the derived weekly rate) under the Federal Schedule of Remuneration.

If the claimant disagrees with the amount of accrued leave shown on the DD Form 214/215, the State agency should review the claimant's copy of the final military pay voucher issued at the time of separation from active military service. This form normally shows military accrued leave data. If the voucher shows the necessary information, the State agency may accept such documentary evidence as final and retain a copy in its files. The use of information on a military pay voucher in lieu of DD Forms 214/215 is an exception and applies only to information pertaining to a lump-sum payment for military accrued leave.

(1) Designated Period of Allocation. If under State law, the lump-sum payment for accrued leave is allocated to the date on which such payment was made and the claimant's DD Form 214 does not contain the payment date, and the claimant gives no other documentary evidence (e.g., final military pay voucher) showing such date, the State agency may consider that the payment date is the same as the date of separation from military service. The State agency does not need to verify the lump-sum payment date with the branch of the Armed Forces unless conflicting information is presented (e.g., the claimant states that the payment was made and the DD Form 214 shows that the payment is pending or vice versa).

If, under State law, the employer may designate the period to which a lump-sum payment to a worker for days of accrued leave will be allocated, the United States, as the employer for ex-servicemembers, considers that Federal military wages attributable to a lump-sum payment for military accrued leave must be allocated to the date of separation, as shown on DD Form 214.

If under State law, a lump-sum paid for days of accrued leave, in connection with a separation from employment, would be allocated to a period after the date of separation, and result in a denial or reduction of benefits for the period to which allocated, the

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lump-sum payment for military accrued leave should be allocated in the same manner and benefits to the ex-servicemember denied or reduced accordingly.

(2) Examples of Allocation of Military Accrued Leave.

Claim effective April 1, 1994. Using Schedule of Remuneration as in effect on April 1, 1994.

Base period (first 4 of last 5 completed quarters)	January 1, 1993 - December 31, 1993
Number of days of military accrued leave reported on DD Form 214	20
Active U.S. military service period which qualifies as Federal military service-	
(a) "Date entered active duty this period"	March 1, 1990
(b) Date of separation:	March 18, 1993
(c) Pay Grade:	E-4

Example 1

Under State law, the military accrued leave (for which lump-sum payment is received) is allocated to the 20 day period (including Saturdays, Sundays and holidays) immediately following the date of separation:

Military Service and Wages credited during base period:

January 1 - December 31 (active duty);
(Each quarter = 3 X (monthly rate))

Military Service and wages during lag period:

First Quarter -- January 1 - March 18, 1994
= 2 months X (monthly rate) + 18 days X (daily rate)

Plus

March 19 - March 30, 1994
= 11 allocated days of accrued leave X (daily rate)

Second Quarter -- April 1 - April 9, 1994
= 9 allocated days of accrued leave X (daily rate)

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(Period of active duty service and wages plus accrued leave wage amount in lag-period are to be posted to wage file for future use.)

EXAMPLE 2

Under State law, the military accrued leave (for which lump-sum payment is received) is allocated to the date on which separation occurred or the lump-sum was paid.

For the January - March 1994 quarter, the Service and Wages credited is:

January 1 - March 18 (active duty; no days lost):	
	2 months, 18 days
Equivalent Federal military wages (active duty period):	\$
Plus 20 X (daily rate) for accrued leave	\$
Total Military Service and Wages	\$

NOTE: In this example, it is assumed that the lump-sum payment date and the separation date are the same. Under this "when paid" allocation, the total military wages for the quarter will exceed the quarterly wage total (3 X monthly rate) calculated for other quarters.

c. Days Lost. For base period wages computation purposes, "days lost" are treated as days in which there were no Federal military service or wages, even though some pay or allowances were paid for such days. Calendar dates of days lost are not used in computing credible Federal military service. However, days lost are not deducted in determining period of continuous Federal military service.

If the claimant disagrees with the "days lost" information on DD Form(s) 214/215, the State agency should issue a monetary determination based on the information available from the DD Form(s) 214/215 and forward an ETA 843 to the branch of service to verify the information. When the DD Form(s) 214/215 does not indicate the actual dates of the "days lost", the State agency should issue a monetary determination based on the claimant's certification of dates of "days lost" on the ETA 841 and forward an ETA 843 to the branch of service to verify the information. When a reply is received, the State agency should issue a monetary redetermination and take other actions, as appropriate.*

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In computing military wages for a period during which "days lost" occurred, the portion of the month preceding and following the "days lost" period will be computed the same as the ending and beginning of a period of service.

Example:

Claim effective October 17, 1993

Base period (first 4 of last 5 completed calendar quarters): July 1, 1992 - June 30, 1993

Service entry date: October 19, 1990

Separation date: October 16, 1993

Dates of days lost: Feb. 27 - March 2, 1993
Aug. 31 - Sept. 8, 1993

Base period wage credits: July - September 1992
(3 X (monthly rate))

October - December 1992
(3 X (monthly rate))

January - March 1993
(Jan. = 1 X (monthly))
(Feb. = 26 X (daily rate))
(Mar. = 28 X (daily rate))

Lag-period wages credits: April - June 1993
(3 X (monthly rate))
July - September 1993
(2 X monthly rate)
+
(22 X (daily rate))

October - December 1993
16 X (daily rate)

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d. Joint Monetary Determinations - UCX-UCFE/UI. A joint monetary determination must be identified as UCX-UI, UCX-UCFE or UCX-UCFE-UI, as appropriate. Federal civilian employment and wages, military service and wages and State covered employment and wages must be shown separately on a joint monetary determination. If a claimant worked in Federal civilian employment and was also in active military service during the base period of the claim, the civilian employment and wages should be shown as U.S. civilian and the military service as U.S. military, or other appropriate designation which identifies the kinds of service separately.

To the extent that State law requires the use of all base period employment in the monetary determination, any Federal civilian or military service and wages assignable to the base period must be used in the monetary determination.

When Federal UCX (UCFE) wages are included in the monetary determination, the benefit costs chargeable to the Federal Government will represent the same ratio to benefits paid as the Federal wages represent to the total of all wages used in the determination. When both Federal civilian and military service are used in the determination, the charges must be separately identified and must represent separately the same ratio to benefits paid as the UCX or UCFE wages represent to the total wages used in the determination.

When a monetary determination is issued under the Interstate Arrangement for Combining Employment and Wages (Combined Wage Program (CWC), the paying State will make a determination of the ratio of the Federal portion of the cost of UCX (UCFE) as stated above. State agencies should **not** use the Form IB-6, "Statement of Benefits Paid to Combined Wage Claimants" to request reimbursement of Federal benefit cost from the transferring State. The paying State will charge the Federal Government directly for its benefit costs based on the use of Federal employment and wages in the determination.

(1) Examples of Calculation of Cost. The following calculations are based on a benefit payment of \$100. The benefit

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amount used is after reduction by any deductible income. The Federal share of benefit costs will always be based on the benefit amount actually paid or deemed paid (e.g. overpayment offset). If both UCFE and UCX costs are involved, the respective program costs will be computed as provided above.

Examples:	A	B	C	D	E
Federal Wages	6,000	None	10,000	1,000	9,500
Total BP Wages	10,000	10,000	10,000	10,000	10,000
State UI Wages	\$4,000	\$10,000	\$ None	\$ 9,000	\$ 500
Federal Ratio	60%	None	100%	10%	95%
WBA	100	100	100	100	100
Federal Benefit Cost	60	None	100	10	95
State-UI Benefit Cost	40	100	None	90	5

Note that in "Example D" above, \$10 is chargeable to the Federal Government, even though the claimant may have qualified for maximum benefits based on State UI wages only. Also, in "Example E", \$5 would be charged to the State, even though the claimant may have qualified for maximum benefits based on Federal wages only and the claimant may have not have qualified for any benefits based on the State-UI wages only.

3. Deduction of Employer Financed Pensions. For the purpose of deducting Federal retirement and annuity payments from UCX benefits, all Federal civilian and military agencies are a single employer--the United States.

Federal retirement plans include the DOD Military Retirement Fund, the Civil Service Retirement System (CSRS), the Federal Employees' Retirement System (FERS), as well as the special Federal retirement plans such as the Civil Service Retirement System for Law Enforcement and Firefighter Personnel (CS-Spec), the Foreign Service Retirement and Disability System (FS), the Foreign Service Pension System (FSPS), the Federal Employees' Retirement System for National Guard Reserve Technicians (FERS-Reserve), and the Federal Employees' Retirement System for Air Traffic Controllers (FERS-ATC).

Under Federal laws, an ex-servicemember may receive military or veterans' retirement and pension payments from the Department of

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Veterans Affairs, the appropriate branch of service, or both. Also, active U.S. military service after 1956 is covered under the retirement, survivors and disability insurance programs provided by Title II of the Social Security Act; U.S. military service occurring between September 16, 1940, and December 31, 1956, may generally be used for such Title II wage credits.

Federal retirement payments and annuities are to be treated the same as private employer's retirement and pension payments are treated with respect to UI payments under State law. Therefore, if State law requires deduction of employer financed or contributed pensions from State UI, Federal annuities and retirement and pension payments (including Fleet Marine Corps Reserve and Naval Reserve retainer pay) will be deducted from UCX benefits.

a. Federal Military Retirement Payments. The Federal Government contributes 100 percent into the retirement fund for U.S. Military retirement payments, including the Fleet Marine Corps Reserve and Fleet Naval Reserve retainer pay. If a military retiree cannot provide a copy of the notice of award or pension check, or if a State agency needs additional information, a request for information should be directed to the branch of service from which he/she receives military retirement payment. All such correspondence should include the Social Security number and the service serial number.

Following are Military activity addresses for each branch of the Armed Forces:

<u>Branch</u>	<u>Address</u>
Air Force	Director DFAS Cleveland Center Post Office Box 99191 Cleveland, Ohio 44199-1126
Army	Director DFAS Cleveland Center Post Office Box 99191 Cleveland, Ohio 44199-1126
Coast Guard	Commanding Officer (Retired Pay Branch) U.S. Coast Guard and Personnel Center Federal Bldg. 444 South East Quincy St. Topeka, Kansas 66688-3591

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Marine Corps	Director DFAS Cleveland Center Post Office Box 99191 Cleveland, Ohio 44199-1126
Navy	Director DFAS Cleveland Center Post Office Box 99191 Cleveland, Ohio 44199-1126
National Oceanic Atmospheric Admin.	NOAA Commissioned Personnel Center 1315 East-West Highway Room 12100 Silver Spring, Maryland 20910-3282 Attention: Steve Eisenberg*

In applying State law to UCX claimants for reducing unemployment compensation because the claimant receives a pension or retirement annuity, State agencies should ensure that their State UI law conforms with requirements of Section 3304(a)(15) of the Internal Revenue Code of 1954, as amended.

b. Federal Civil Service and FERS Retirement and Annuity Payments. The Federal Government contribution and employee contribution varies according to the particular retirement plan. To determine or verify the amount of a Federal civil service annuity payment, the claimant should be asked to present his/her notice of award or annuity, retirement or pension check. The notice of award sets forth the monthly retirement payment. The Federal civil service retiree's notice of award is Form RI 20-25, Civil Service Annuity Statement, which he/she receives after he/she has applied for such retirement annuity and the U.S. Office of Personnel Management has adjudicated the case.

SESAs should be aware that medical insurance payments may be deducted from the pension check, in this case, the annuity amount payable, which may be deductible in accordance with State law, would be more than the amount indicated on the pension check.

If a Federal retiree is not able to provide his/her copy of the annuity statement nor his/her retirement check, or if a SESA needs additional information, a letter should be directed to the:

U.S. Office of Personnel Management
Retirement and Insurance Group
Employees Service and Records Center
Boyers, Pennsylvania 16017

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The correspondence should include the individual's Federal civil service annuity claim number, or, if the number is not available, the retiree's separating Federal agency, his/her date of birth, social security number, and the date of separation. The claimant's final SF-50 is a source of such data.

4. Federal Schedule of Remuneration. As provided by 5 U.S.C. 8521(a)(2), UCX wages means all pay and allowances "in cash" and "in kind" for Federal service computed based on the pay and allowances for the pay grade of the person at the time of discharge or release from the military service, as specified in the schedule applicable at the time the "first claim" is filed. The Schedule of Remuneration will be issued from time to time by the Secretary of Labor upon consultation with the Secretary of Defense. When a new Schedule of Remuneration is issued, it is published as a notice in the Federal Register. A new Schedule of Remuneration takes effect with the beginning of the first full week beginning in the calendar quarter following the calendar quarter in which the schedule is issued and shall remain in effect until another schedule becomes effective. (Refer 20 CFR 614.12.) Schedules shall apply to the determination of wage credits for all wage assignments as a result of "first claims" effective during the period they are in effect.

5. Notice of Monetary Determination. UCX claimants will be given notices of monetary determinations in the same manner that State UI claimants are given such notices. Copies of notices of monetary determinations will also be sent to the branch military service from which the ex-servicemember separated and any Federal agency which employed a UCX claimant as a civilian, to the same extent that chargeable employers are given such notices under State law and practice. The State agency's notice of monetary determination may be used in conjunction with Form ETA 841 without revision except to identify the determination as UCX, if items 22 and 23 are on the Form ETA 841. If these items are not on the Form ETA 841, they must be included on the State's monetary determination form. The notice of monetary determination must inform the person of the right to request correction of all findings of the appropriate branch of the service, by including the following statement on the determination:

"If you believe any military service information on which this determination is based is incorrect or substantially incomplete, you may request reconsideration directly from

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your branch of the Armed Forces or through this local office. This local office should be informed promptly of any response received to your request."

A claimant whose military service is not "Federal military service" in accordance with the requirements as outlined in Chapter II, must be denied UCX benefits. A monetary determination will be issued under these circumstances.

The following statement should be included on the determination:

"The findings of Federal military service are final and conclusive. Hence, if you believe any military service information on which this determination is based is incorrect or substantially incomplete, it is your responsibility to request reconsideration by sending a request directly to your branch of military service and notify this local office, or file your request through the local office.

These actions must take place within the appeal period specified (indicate where specified on the determination form). File an appeal within such period to protect your rights while your request is being considered. You may wish to request assistance from this local office."

6. Subsequent Benefit Year. Lag-period Federal military service and wages in the base period of a subsequent claim to establish a benefit year, including service and wages allocated under State law for lump-sum payment of military accrued leave, may be used in the same manner as State covered wages. If the subsequent claim is filed under the combined wage program, the service and wages are transferrable in the same manner as State covered employment and wages.

When an initial claim is filed to establish a second benefit year based on Federal military service/wages, the State of assignment must take care to ensure that the wages used in the determination are based on the Schedule for Remuneration in effect at the time the person filed the "first claim".

7. Determining Benefit Eligibility. The finality of Federal military findings precludes the State agency from adjudication of certain issues under State law. State agencies must accept as "final and conclusive" the findings of the branch of the Armed Forces as shown on DD Form(s) 214/215 and completed request for military information as shown on Forms ETA 843.

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A State agency will apply the eligibility provisions of the State law with respect to: (1) ability to work; (2) availability for work; (3) refusal of suitable work as it relates to offer(s) of civilian employment; and (4) separation from civilian employment during or subsequent to active military service.

When benefits are due a UCX claimant at time of death, payment of the amount due should be made in accordance with State law governing the payment of UI benefits due at time of death.

The State agency will not apply the eligibility or disqualification provisions of the State law to: (1) the determination of UCX service and wages; (2) separation from active military service, including voluntary release request or retirement; (4) separation from a pre-service employer(s); (5) failure of an ex-servicemember to re-enlist in the Armed Forces; or (6) failure of an ex-servicemember to exercise re-employment rights with pre-service employer.

a. Failure to Exercise Re-employment Rights. A State may not disqualify an ex-servicemember, under State law provisions, as refusing an offer of suitable work for failure to exercise statutory re-employment rights a pre-service employer. Additionally, under Federal statute, failure to exercise re-employment rights cannot be construed as a voluntarily leaving employment because the separation occurred prior to military service and the employer-employee relationship is not continues during military service.

This statute also confers re-employment rights on a person who, in order to perform "training and service" in the Armed Forces, "has left or leaves a position".

However, the limitation on the application of State law does not apply to persons who, under Federal statute, do not have to apply for re-employment but have the right to keep their positions with their pre-service employers during military service or during the period required to report for physical examination, entrance on service, or induction into the service. Their failure to report for work as required by Federal law can be deemed to be a voluntary quit because the employer-employee relationship with the pre-service employer continues. Such persons fall into two categories:

(1) Reservist and persons in the National Guard who perform active duty training or inactive duty training. Such persons must, upon request, be given a leave of absence by their employers; and

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(2) Any employee required to report for physical examination, entrance on service, or induction into the service. Such persons are given a leave of absence by statute and must be permitted to return to their pre-service position if, after examination, they are accepted but not immediately inducted; or do not enter service at that time; or are rejected. The statutory leave continues until the person is accepted or rejected for military service.

Persons in these categories must report for work at the beginning of their next regularly scheduled work period after the time necessary to travel to the place of employment following release from duty, completion of examination and acceptance, failure to enter service, or rejection. This time may be extended under certain contingencies enumerated in the statute.

b. Subsistence Allowances for Vocational Rehabilitation Training. Ex-servicemembers may qualify for subsistence allowances, provided by Federal law (38 U.S.C. Chapter 31), when they take vocational rehabilitation training. Under the Federal UCX law (5 U.S.C. 8525(b)(1)), a claimant is not eligible for UCX benefits or for the UCX portion of a joint claim for any week, or day(s) within a week, for which he/she receives such allowances from the Department of Veterans Affairs.

State law applies on whether: (1) waiting-week credit may be allowed for a UCX claim; or (2) State-UI, UCFE and joint UI-UCFE benefits may be paid during a period for which a claimant receives such allowances.

c. War Orphans' (or Widows') Educational Assistance Allowances. Ex-servicemembers may qualify for educational assistance allowances, provided by Federal law (38 U.S.C. Chapter 35), if they are war orphans or widows (or, in some cases, children and wives of permanent, totally disabled veterans). Under the Federal UCX law (5 U.S.C. 8525), a claimant is not eligible for UCX benefits or for the UCX portion of a joint claim for any week, or day(s) within a week, for which he/she received such allowances from the Department of Veterans Affairs.

d. Other Educational Assistance Allowances. Ex-Servicemembers may also qualify for educational assistance allowances, provided by Federal law (38 U.S.C. Chapter 34), and payable by the Department of Veterans Affairs. Federal law does not identify such allowances as disqualifying for UCX benefit purposes or require that such allowances will disqualify a

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claimant for UCX benefit entitlement, or that UCX benefits need be reduced. Whether or not these educational assistance allowances are disqualifying or deductible from UCX benefits will be determined according to a particular State's law applicable to UI claims.

NOTE: State agencies should be aware of the distinction between allowances payable under Chapters 31 and 35, Title 38, U.S. Code, and those payable under Chapter 34 of that Title.

e. Department of Veterans Affairs Disability Pay. Federal law does not require a deduction from UCX benefits for military service connected disability compensation payable under 38 U.S.C. Chapter 11 by the Department of Veterans Affairs because it is based on the percentage of disability sustained by the individual rather than on the previous work performed by the individual, the relationship to the level of prior remuneration, or the length of past service.

f. Military Severance or Separation Pay. Federal law does not require that receiving severance or separation pay related to active service with the U.S. Armed Forces will disqualify a claimant for UCX benefit entitlement or reduce UCX benefits. Whether or not such pay is disqualifying or deductible from UCX benefits will be determined according to the provisions of State law.

The military awards nondisability severance or separation pay and disability severance or separation pay. Nondisability severance or separation pay is authorized only for officers in regular and reserve military service, both commissioned and warrant officers, and reserve enlisted personnel involuntarily discharged, released, or otherwise not continued in military service after at least five years of continuous active duty. Disability severance or separation pay is a special lump-sum payment made to members of the armed forces separated from active military service because of minor physical disabilities that, while substantial enough to adversely affect their abilities to perform the duties of their respective offices or grades, are not so severe as to seriously impair their civilian earnings capacities. Such disability severance and separation payment is to assist such personnel in their transitions back to civilian life.

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Federal military separation, dismissal, or severance payments, including those under the Voluntary Separation Program (VSI) and Special Separation Benefit (SSB) programs, are not "Federal military wages" as defined at 20 CFR 614.2(h). These payments do not represent pay and allowances in cash or in kind for Federal military service, and are not computed on the basis of the pay grade of the individual at the time of his/her latest discharge or release in accordance with the Schedule of Remuneration applicable at the time his/her first claim is filed.

g. National Guard and Reserve Earnings. SESAs whose State UI law provides for the reduction of National Guard or Reserve earnings from the UI WBA should cover this requirement in BRIs and clearly note this State law requirement in informational material provided to claimants. SESAs should also include this requirement on weekly claims forms.

8. Nonmonetary Determinations.

a. Applicability of State Law Provisions. Federal Law (5 U.S.C. 8502(b)) and agreements between the U.S. Secretary of Labor and State employment security agencies require, with specified exceptions, that ex-servicemembers receive unemployment benefits in the same amount and under the same terms and conditions that apply to individuals claiming UI under the law of the State to which such military service and wages are assigned or transferred. It is important to ensure that UCX benefits are administered according to this requirement.

b. Limitations on Use of State Law Disqualification Provisions. A State agency will apply the eligibility or disqualification provisions of the State law, including cancellation of wage credits or reduction of benefits, on

- (1) Ability to Work;
- (2) Availability for work;
- (3) Refusal of suitable work as it relates to offer(s) of civilian employment; and

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(4) Reason for separation from civilian employment during or subsequent to active military service.

The State agency will not apply the eligibility or disqualification provisions of the State law with respect to the separation from active military service or the pre-service employer that affect the determination and use of military employment and wages or the payment of benefits. The fact that an ex-servicemember could have re-enlisted, but did not after completing a period of active military service, or that he/she voluntarily requested release or retirement, after serving a period (or length) of time in the military, is not considered a basis for holding that they are not available for, or not actively seeking work, or for the assessment of a disqualification for "voluntary quit" or "refusal of suitable work", or for the assessment of a "earnings requalification requirement".

c. Nonmonetary Determinations. UCX claimants will be given notices of nonmonetary determinations in the same manner that UI and UCFE claimants are given such notices. The branch of military service for which the claimant served, and any Federal military or civilian agency which employed a UCX claimant as a civilian, should receive a notice of claim filing, and any subsequent notice of nonmonetary determination, in the same manner as State law or procedures/practices require such notices to State covered employers.

9. Appeal of State Agency Determination. Appeals from determinations of the State agency in UCX cases, will be made to the same State administrative appellate authority that handles regular State UI appeals. Appeal forms and decisions will contain the designation "UCX".

a. Applicability of State Appeal Procedures. As provided in 20 CFR 614.7, determinations involving entitlement to, and eligibility for, UCX may be appealed and reviewed under the same procedures as determinations under the applicable unemployment insurance law. UCX decisions will follow the format and criteria used for regular State UI decisions. However, UCX findings, as shown on DD Form(s) 214/215 and ETA 843, must be identified and included, preferably by direct quotation, in the appeal decision's statement of facts. The same time periods for filing appeals, notices of hearing, etc., used for UI appeals will be used for UCX appeals.

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Appeals on interstate UCX claims will be processed under interstate appeals procedures. If the liable State procedure requires redetermination before appeal, the agent State may use Form IB-101, Notice of Interstate Appeal, to file the request. The form should be identified as a request for redetermination, and will bear the notation "UCX", as appropriate.

If additional information or review is being requested of an Armed Forces branch, the claimant's right of redetermination/appeal should be reserved pending completion of Federal action. For example, the State agency may take the claimant's appeal when the request for review is filed and suspend action on the appeal pending receipt of the military branch's report. Alternative methods may be used if the claimant's right to appeal is not adversely affected. However, no hearing should be scheduled pending a reply from the appropriate branch of the Armed Forces.

b. Appeal Decisions. A State agency may use its regular benefit appeal forms if they show the symbol "UCX" to indicate that the State administrative appellate authority appeal decision is connected with an ex-servicemember's claim for benefits under Federal law (5 U.S.C Chapter 85). In hearing appeals and issuing decisions, the information obtained from the branch of service must be accepted as final and conclusive.

e State agency is required to send a copy of all UCX appeal decisions to the appropriate branch of the Armed Forces (or NOAA), and additional copies to the National Office, and the appropriate Regional Office (Refer to Addresses of Military Appeals Tribunals on pages IV-22 and IV-23 of this chapter).

10. Appeal of Federal Findings. If a claimant disagrees with the Federal findings of the branch of military service, he/she may request reconsideration of such finding by appealing directly to the branch of service or applying through the State agency before the period elapses for redetermination of entitlement or appeal under the State law.

Any information on the corrected military document, issued to the claimant as a result of the appeal, will constitute findings of such branch of the military service which are final and conclusive for UCX purposes.

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a. Appeal Directly to Branch of Service. A claimant may file an appeal directly with the Branch of Service. Individuals may obtain information pertaining to the evidence to be submitted through the service officer of any veterans organization, a Department of Veterans Affairs (formerly known as the Veterans Administration) contact office, or State veterans affairs commission or bureau representative, or in some localities, from the Red Cross. A direct appeal to the Branch of Service should be filed and the State agency notified prior to the end of the appeal period under the State law.

If the claimant is appealing due to a determination issued by the State agency, follow the procedures in section 10.a. above to protect the claimants benefit rights.

b. Addresses of Military Appeals Tribunals.

<u>Branch</u>	<u>Address</u>
Air Force	HQ AFMPC/DPPTU ATTN: Mary Stigers 550 C Street West Suite 11 Randolph AFB, TX 78150-4713*
Army	Army Board for Corrections of Military Records 1941 Jefferson Davis Highway Crystal Mall 4 Arlington, VA 22202-4508
Coast Guard	Commander Coast Guard Personnel Command 2100 Second Street, S.W. Washington, D.C. 20593-0001 CGPC-Adm-3 Attention: Valeria Smith*

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Marine Corps	Commandant U.S. Marine Corps (Code MMSB-10) 2008 Elliot Road Quantico, Virginia 22134-5030
Navy	Bureau of Naval Personnel Attn: Karen Stanton UCX Liaison Officer 5720 Integrity Drive Millington, TN 38055-3120*
National Oceanic and Atmospheric Administration	NOAA Commissioned Personnel Center 1315 East-West Highway Room 12100 Silver Spring, Md. 20910-3282 Attention: Steve Eisenberg*

c. **Appeal Filed Through the State Agency.** If the claimant disagrees with a determination which is based on Federal findings and the claimant also disagrees with the Federal findings, the State agency should assist the claimant with filing of an appeal, and send the request together with any supporting information to the appropriate branch of service. To protect the claimant's UCX rights, the agency will also assist the claimant with filing an appeal of the agency determination. However, when such an appeal is filed, no hearing will be scheduled by the State until the appropriate branch of the service replies. Upon receiving notice of the action from the military service, the State agency will promptly issue a determination or redetermination to the claimant or will schedule a hearing on the appeal, whichever is appropriate.

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1. Prevention and Detection of UCX Overpayments. The State Agency is responsible for taking necessary measures to ensure that UCX benefits are paid only to those individuals who meet all necessary requirements. The State agency should employ the same methods used for State UI claims to prevent and detect possible violations of State and Federal law, specifically 18 U.S.C. 1919. The State agency are required to compare the LCCC inquiry response with respect to the Dates of Service, Entry Date, Separation Date, Pay Grade, Rate or Rank and Date of Birth with the entries on the DD Form 214 to ensure that the DD Form 214 is valid and unaltered. Other items that should receive special attention are those with typing strike-overs and erasures. If the agency's procedure provides for postaudits of State UI claims, the agency will include UCX claims in such postaudits to the same extent as it does for State UI claims.

a. Prevention of Duplicate Claims. The State agency will establish and maintain controls to detect duplicate filing of UCX claims and the concurrent filing of State UI or UCFE and UCX claims under the intrastate program or interstate and combined wage programs when the wages are assigned or transferred to the State, and when the State is acting as an agent State.

2. Overpayment Determinations.

a. Non-Fraud Overpayment Determinations. When UCX benefits are determined to have been improperly paid under conditions that involves no fraud, the State agency will issue an overpayment determination in the same manner and under the same conditions as apply to such payments under the State UI program. Any provisions of State law authorizing waiver of recovery of nonfraud overpayments shall be applicable to UCX. Such determinations are subject to the same appeal and review that the State law provides for other types of determinations.

b. Fraud Overpayment Determinations. An individual who obtains UCX benefits through fraud is subject to the administrative disqualification and penalties apply to such payments under the State UI program. Determinations issued as a result of fraud are subject to the same appeal and review that the State law provides for other types of determinations.

3. Overpayment Recovery. Under the provisions of 5 U.S.C. 8507(a), if it is determined that an individual has been improperly paid UCX benefits as a result of fraud on non-fraud, he/she

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will be required to repay the amount of such overpayment in accordance with State law. Except that, the offset of UCX benefits payable to recover a UCX overpayment which resulted from fraud is limited to the 2-year period immediately following the date of the fraud determination. However, the claimant is liable for repayment of the overpayment balance not recovered by offset. This matter is covered in the Federal UCX regulations (20 CFR Part 614). If State law so provides, a State agency may limit the amount of an individual's WBA that may be offset for any week to reduce the balance of the outstanding non-fraud overpayment.

The State agency must observe the minimum requirements in collecting an overpayment of UCX benefits as described below.

a. Court Ordered Repayment or Other Agreements. In a case involving fraud, if an agreement for repayment has been obtained by the U.S. Attorney or a State attorney, or in a case of court ordered repayment, and the debtor fails to repay as agreed or ordered, the State agency will notify the U.S. Attorney, the State attorney, or the court, as appropriate.

b. Comprehensive Overpayment Collection Procedures and Practices. Except as provided in this Chapter, the State agency should seek to recover all UCX overpayments through a comprehensive, vigorous, and uniformly applied collection program that is at least equal to its efforts to collect State UI overpayments. The program for collecting a UCX overpayment must include all debt collection procedures reasonably available to the State agency, such as (but not limited to):

(1) Timely and aggressive demands for repayment, embodying adequate description of the overpayment;

(2) Efforts to locate the debtor by communicating with past employers; by examining wage records, when available; by personal visit to debtor's last known address; by inquiry among is/her former associates and relatives; and by using the Interstate Crossmatch/Claimant Locator.

(3) Collections by offset when possible according to this Chapter;

(4) By civil suit, as authorized by State law; and

(5) When the debtor is adjudicated bankrupt, the timely filing of a proof of claim with the appropriate administrative authority or court.

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c. Limiting Collection Activity Due to Diminishing Returns.

The State agency will establish and observe realistic points of diminishing returns beyond which further collection efforts by the State agency are not justified or beyond which collection efforts may be limited. In establishing points of diminishing returns, the State agency will consider estimated or actual recovery rates in relation to:

- (1) Costs of different types of action;
- (2) Size of the debt; and
- (3) The possibility of collection through the State agency's efforts and by other means.

4. Cross-Program and Interstate Overpayment Recovery. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99-272, Section 12401, amended Sections 303(a)(5) of the Social Security Act (SSA), and Sections 3304(a)(4), and 3306(f), FUTA, and added subsection (g) to Section 303, SSA. These amendments provide for reciprocal offset of benefits payable under State UI law or Federal UCX/UCFE law to recover overpayments under the State or Federal programs. Additionally, it provides for the offset of such benefits to recover benefit overpayments under other States' laws.

The agreements described in "a" and "b" below have been made available to provide framework for the implementation of the provision.

a. Cross-Program Offset Agreement With Secretary of Labor.

To offset cross-program between Federal and State funded benefit programs on an intrastate, the State must sign a reciprocal agreement with the Secretary of Labor. To offset cross-program on an interstate basis, both the requesting and recovering State must have signed a reciprocal agreement with the Secretary. The procedures for handling interstate overpayment recoveries, State or Federal, are published in Section IX of ET Handbook No. 392.

b. Interstate Reciprocal Overpayment Recovery Arrangement (IRORA). The IRORA was developed by the Interstate Conference of Employment Security Agencies' (ICESA) Interstate Benefit Committee and approved by ICESA Board of Directors as a cooperative agreement between States to provide for interstate collection of unpaid benefit overpayments in one State by offsetting benefits payable under other States' laws. To offset cross-program on an interstate basis, both the requesting and recovering State must have signed a reciprocal agreement with the Secretary. The

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procedures for handling interstate overpayment recoveries, State or Federal, are published in Section IX of ET Handbook No. 392.

5. Combined Wage Claim (CWC) Overpayment Recovery. Upon request by a transferring State, benefits payable under the CWC arrangement must be withheld to recover an overpayment in a transferring State unless the law of the paying State specifically prohibits such recovery (20 CFR 616.8(e)). Therefore, if a State agency has transferred wages for use on a CWC claim and the claimant has an outstanding balance on an overpayment in the transferring State, the State should enter the "overpayment indicator" on the TC-IB4 wage transfer response and forward a request for recovery to the paying State. If the paying State refuses to offset the overpayment, the case should be forwarded to the appropriate ETA Regional Office for resolution. Refer to ET Handbook No. 399 for additional information.

6. Write-off of UCX Overpayments--Fraudulent and Nonfraudulent. After following required collection procedure and having reached a point of diminishing returns, a State agency may, after accountability has transferred to the State (as described in Chapter I, Item 15), determine that a debt is uncollectible and remove the amount of the uncollectible overpayment from its accounts in situations as follows:

a. When a debtor has no resources and is arrested for a felony or is permanently incapacitated for work, physically or mentally;

b. When a debtor dies and there is positive evidence showing the debtor left no estate;

c. When a debtor is adjudged bankrupt or was discharged in bankruptcy, and the amount due as listed in the schedule of debts or proof of claim was duly filed in the bankruptcy proceedings, regardless of the amount;

d. When an overpayment amounts to \$25 or less and was on the State agency's records for at least one year; or

e. When an overpayment amounts to more than \$25 and was on the State agency's records for at least three years.

Removal of an overpayment from the accounting records does not cancel the debt to the Federal Government, which remains collectible until paid or otherwise discharged. However, no further active collection efforts are required.

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7. Disposition of Recovered UCX Funds. Any amount recovered by a State agency shall be credited to the FEC Account by reporting such amount on the quarterly ETA 191 as an adjustment, credited to the Federal military agency originally charged.

8. Interest on UCX Overpayments. Federal laws (5 U.S.C. Section 8502(b), 5 U.S.C. Section 8521(b)) require equal treatment of claimants under the UCX program. Under the equal treatment rule, if a State agency imposes on claimants an interest charge on overpayment balances under the regular Federal-State unemployment compensation program, the charge must be imposed on overpayment balances due under the UCX program (20 CFR Section 614.11(f)). Federal law requires no minimum or "Standard" interest rate. Therefore, whatever interest rate applies to regular State unemployment insurance, also applies to UCX program funds. However, under the applicable Federal statutes and regulations, a State is not authorized to retain the interest collected on UCX program overpayments.

An overpayment, under the UCX program, that results from a knowing misrepresentation or failure to disclose material facts, must be repaid. 5 U.S.C. Section 8507(a). Section 8507(b)(1) provides that "(a)n amount repaid" under subsection (a) shall be "deposited in the fund from which payment was made, if the repayment was to a State agency." (Emphasis supplied). See, e.g., 20 CFR Section 614.11(j)(1). The term "an amount repaid" includes both the overpayment principal recovered and any interest charge assessed. Therefore, both the principal and the interest charge must be credited to the FEC Account.

Although authority for assessment of interest is in State law, the imposition of the charge does not entitle the State to assume ownership of the interest collected. Interest on interpleaded or deposited private property funds generally follows this principal and is a protected property right that may not be appropriated by the State without just compensation. Therefore, if the State retains interest on Federal funds, it would amount to an unauthorized appropriation of Federal funds.

9. Records of UCX Overpayment--Fraudulent and Nonfraudulent. Accounting records, specifically identified by program will be kept for UCX overpayments. Among other things, records of UCX overpayments will contain the reason for each overpayment and will show, separately, overpayment resulting from fraud. Records of UCX overpayments will show, in each case, the amount of the overpayment, the action taken by the State agency to collect the overpayment, the results of the State agency's collection activities, the dates and amounts of repayments or amount recov-

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ered by offset, and the current balance, if any. The basis for the State agency's determination that a debt is uncollectible will be included in the overpayment files if the amount of the overpayment is removed from the accounts. The records will be transferred to State agency accountability for disposal, under provisions of State law, 3 years after the date of write-off.

10. Criminal Offense. Under the Federal Criminal Code (18 U.S.C. 1919), a person who makes a false statement of a material fact, knowing it to be false, or who knowingly fails to disclose a material fact, to obtain or increase for himself/herself, or for any other person, a UCX payment, may be fined not more than \$1,000 or imprisoned for not more than 1 year, or both.

The statement or representation must have been false and the claimant must have known it was false. It must have been material to his/her claim, and it must have been made for the purpose of obtaining or increasing for himself/herself or someone else a payment under the Federal UCX law (5 U.S.C. Chapter 85). If the case is failure to disclose, the failure must have been of a material fact and the person who failed to disclose such fact must have known that the failure would obtain or increase a benefit for himself/herself or someone else. However, facts which support a determination imposing an administrative disqualification and penalty for fraud may not be sufficient to support a criminal prosecution.

a. Preparation of Case. When a State agency has enough facts for a prima facie case under the Federal Criminal Code (18 U.S.C. 1919, or 5 U.S.C. 8507), it will develop the factual information, such as lists of witnesses and an abstract of the evidence each will present, copies of applications, certificates, statements or affidavits in which false allegations of material facts are made, copies of payrolls, samples of signatures, and any other evidence. The amount of overpayment, if any, and copies of checks, warrants, or cash receipts received by the person, will be shown.

b. Decision on Appropriate Action. Consistent with the ETA/OIG Memorandum of Understanding on this subject and based on the material compiled, the State agency will decide whether criminal action should be undertaken in Federal courts or State courts. If prosecution in the Federal courts is appropriate, the matter will be referred to the appropriate Regional Inspector General for Investigation (RIGI/CSSI), Department of Labor (DOL). If the case does not meet the prescribed criteria and prosecution

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in the Federal courts is not appropriate, or if the U.S. Attorney declines to prosecute the case, appropriate prosecutive action should be sought by the State agency in State/local courts in accordance with State law and practice.

11. Arrangements with the Department of Justice (DOJ) and the Office.

a. Referral to the OIG. The DOJ and the Federal Bureau of Investigation (FBI) have agreed with the DOL that the authority to investigate criminal fraud matters arising from and pertaining to Federal unemployment compensation programs shall be vested in the OIG. (See Memorandum of Understanding (MOU), FBI and OIG (October 14, 1983); DOJ letter from Stephen S. Trott (Assistant Attorney General-Criminal Division) to Francis X. Lilly (Deputy Solicitor of Labor) (February 15, 1984)) Fraudulent claims for UCX will be referred to the appropriate RIGI or the Chief of the Security and Special Investigations Branch (CSSI) if they meet any one or more of the following three criteria:

(1) If the established fraudulent overpayment amount exceeds \$1,000 (NOTE: To meet this criteria, the actual amount of the benefit amount overpaid must exceed \$1,000. Penalty amounts added to the actual overpaid amount must not be considered in determining if the overpayment meets this criteria.); or

(2) If the established fraudulent overpayment (regardless of amount) involves the use of a false governmental identification document, such as DD 214/215, to claim entitlement for UCX benefits (violation of 18 USC 1028); or

(3) If there are other factors concerning the fraudulent overpayment which, in the judgment of the State agency or ETA officials, indicate a need for OIG investigation (i.e., offenses of an extremely flagrant nature or offenses involving claimants who leave the State).

When a State agency refers a case to the OIG, it will include in the transmittal correspondence the reason for the referral as taken from the above criteria. For example, if a case involves the use of false government identification documents, the correspondence should indicate the specific document used (i.e., DD 214/215, etc.). If the case involves "other factors", show the specific reason in the transmittal (i.e., the offense is considered as exceptionally flagrant and the penalties of State law are not deemed sufficient or the claimant is no longer residing in the State).

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Referral of these claimant fraud cases will be made by a narrative summary from the State agency to the appropriate RIGI/CSSI on a memorandum, State report form, or DOL Incident Report, Form DL 1-156 (a copy of which will also be sent to the appropriate Employment and Training Administration (ETA) Regional Administrator (RA)). Regardless of the type of form used, the narrative summary must set forth a general description of the claimant (i.e., name, SSN, address, race, sex, date of birth, physical description, etc.), the type of referral (from the criteria in Item 11 above), the type(s) of UC program involved as well as the monetary loss (i.e., UCX - \$1,500), and any relevant facts already developed by the State agency.

The following types of information should also be attached to the narrative summary that is sent to the RIGI/CSSI: copies of application(s) and/or claim(s) for benefits; copies of the claimant's statement/affidavit; copies of the employer reports/payroll information, copies of checks or warrants, State agency determination notices and appeal decisions, if applicable; and samples of signatures and any other evidence the State agency has in its possession that has a bearing on the facts in the case.

Within 5 days, the RIGI/CSSI will acknowledge to the State agency (with a copy to the ETA/RA), in writing, its acceptance of the case for further investigation prior to referral to the appropriate U.S. Attorney for prosecutive action. Those cases referred to but not accepted by the OIG will be returned to the State agency. The RIGI/CSSI will also notify the ETA/RA of such cases where no action will be taken. Upon return of these cases, the State agency should consider appropriate prosecutive action in State/local courts.

In those cases where the referral has been accepted, the OIG will conduct such investigations as are necessary in preparing the case for prosecution. The OIG will keep the State agency advised on a confidential basis on the status of the case. On fraud cases referred to the OIG for investigation, the State agency will coordinate all claimant contacts with the RIGI/CSSI to ensure that these actions will not interfere with the pending criminal investigation and prosecution. After a case is closed, the RIGI/CSSI will notify the State agency of the outcome of the case with a copy to the ETA/RA.

If the referral criteria contained in Item 11 above should be changed within a jurisdiction (State/Region) due to the workload, the known attitude of prosecutors, or the quality of State agency obtained prosecutions, the Assistant Inspector General for

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ETA, will authorize revisions to the referral criteria. In general, the OIG's policy is to avoid unnecessary referral of cases which will not be investigated. The appropriate ETA/RA will be notified, in writing, of referral criteria revisions by the Director, Unemployment Insurance Service, ETA, through the Office for Regional Management.

b. Records of Cases Referred to the OIG. A record of each case referred to the OIG will be maintained by the State agency, showing the dates and the documents referred. This record may be abbreviated if duplicate copies of all documents referred are retained by the State agency. Final disposition, such as fine or imprisonment, dismissal, or non-prosecution, is to be recorded. The amount of the UCX overpayment established to the claimant's account and subsequent recoveries, as well as collection efforts (if appropriate), are to be posted to the claimant's record by the State agency.

12. Referral of Cases for Prosecutor in State Court. If the U.S. Attorney declines to prosecute a case, the State agency should refer the case for prosecution in a State court if it meets the criteria for prosecution of cases of fraudulent claiming of State UI benefits.



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1. DD Form 214, Armed Forces of the United States Certificate of Release or Discharge from Active Duty. A DD Form 214 is issued to all military personnel being separated from a period of active duty for training, full-time training duty, or active duty for special work when they have served 90 days or more, or when required by the Secretary of the Department of Defense for shorter periods. The Department of Defense Instruction 1336.1 of January 6, 1989, provides that personnel shall be furnished a DD Form 214 upon separation for cause or for physical disability, regardless of the length of time served on active duty.

Servicemembers who change their status or component while serving on active duty are also provided a completed DD Form 214 upon:

-- Discharge for immediate enlistment or reenlistment optional--at the discretion of the military services.

-- Termination of enlisted status to accept an appointment to warrant or commissioned officer grade.

-- Termination of a temporary appointment to accept a permanent warrant or commission in the Regular or Reserve components of the Armed Forces.

-- Termination of an officer appointment in one of the Military Services to accept appointment in another Service.

a. Copy No. 1 of DD Form 214. The original DD Form 214, Copy No. 1, contains only items 1 through 22 and will be "personally delivered" to each military separatee, before departure from the separating installation. This copy may be accepted by the State agency as evidence of military service. However, it does not provide the "Character of Discharge" or "Dates of Time Lost." Therefore, although it may be used as the basis for initiating an inquiry to LCCC, it may not be used by the State agency as the basis of UCX eligibility.

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(1) Facsimile of Copy 1 of Form DD 214.

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES		THIS IS AN IMPORTANT RECORD. SAFEGUARD IT.		ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID	
CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY					
1. NAME (Last, First, Middle)		2. DEPARTMENT, COMPONENT AND BRANCH		3. SOCIAL SECURITY NO.	
4.a. GRADE, RATE OR RANK		4.b. PAY GRADE		5. DATE OF BIRTH (YYMMDD)	
7.a. PLACE OF ENTRY INTO ACTIVE DUTY		6. RESERVE OBLIG. TERM. DATE			
7.a. PLACE OF ENTRY INTO ACTIVE DUTY		7.b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known)			
8.a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND		8.b. STATION WHERE SEPARATED			
9. COMMAND TO WHICH TRANSFERRED				10. SGLI COVERAGE <input type="checkbox"/> None Amount: \$	
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.)				12. RECORD OF SERVICE	
R				a. Date Entered AD This Period	
				b. Separation Date This Period	
				c. Net Active Service This Period	
				d. Total Prior Active Service	
				e. Total Prior Inactive Service	
				f. Foreign Service	
				g. Sea Service	
				h. Effective Date of Pay Grade	
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)					
K					
14. MILITARY EDUCATION (Course title, number of weeks and month and year completed)					
15.a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM		15.b. HIGH SCHOOL GRADUATE OR EQUIVALENT		16. DAYS ACCRUED LEAVE PAID	
17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION		18. REMARKS			
19.a. MAILING ADDRESS AFTER SEPARATION (Include Zip Code)		19.b. NEAREST RELATIVE (Name and address - include Zip Code)			
20. MEMBER REQUESTS COPY 6 BE SENT TO DIR. OF VET AFFAIRS <input type="checkbox"/> Yes <input type="checkbox"/> No		22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature)			
21. SIGNATURE OF MEMBER BEING SEPARATED		E			
		MEMBER - 1			

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b. Copy No. 4 of DD Form 214. The difference between Copy No. 1 and 4 is that Copy No. 4 contains an additional section of special information, items 23 - 30. These items contain the information necessary to the determination of UCX entitlement and eligibility. This copy is also personally delivered to each military separatee before departure from the separating installation.

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b. Copy No. 4 of DD Form 214 - Cont'd.

(1) Facsimile of Copy No. 4 of DD Form 214.

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES THIS IS AN IMPORTANT RECORD. SAFEGUARD IT. ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

1. NAME (Last, First, Middle) W W W		2. DEPARTMENT, COMPONENT AND BRANCH		3. SOCIAL SECURITY NO.		
4.a. GRADE, RATE OR RANK	4.b. PAY GRADE	5. DATE OF BIRTH (YYMMDD)		6. RESERVE OBLIG. TERM. DATE Year Month Day		
7.a. PLACE OF ENTRY INTO ACTIVE DUTY		7.b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known)				
8.a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND			8.b. STATION WHERE SEPARATED			
9. COMMAND TO WHICH TRANSFERRED				10. SGLI COVERAGE <input type="checkbox"/> None Amount: \$		
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) IR			12. RECORD OF SERVICE			
			a. Date Entered AD This Period	Year(s)	Month(s)	Day(s)
			b. Separation Date This Period			
			c. Net Active Service This Period			
			d. Total Prior Active Service			
			e. Total Prior Inactive Service			
			f. Foreign Service			
			g. Sea Service			
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) K			14. MILITARY EDUCATION (Course title, number of weeks) and month and year completed)			
15.a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM <input type="checkbox"/> Yes <input type="checkbox"/> No		15.b. HIGH SCHOOL GRADUATE OR EQUIVALENT <input type="checkbox"/> Yes <input type="checkbox"/> No		16. DAYS ACCRUED LEAVE PAID		
17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION <input type="checkbox"/> Yes <input type="checkbox"/> No						
18. REMARKS S H E						
19.a. MAILING ADDRESS AFTER SEPARATION (Include Zip Code)			19.b. NEAREST RELATIVE (Name and address - include Zip Code) E			
20. MEMBER REQUESTS COPY 6 BE SENT TO DIR. OF VET AFFAIRS <input type="checkbox"/> Yes <input type="checkbox"/> No		22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature) E				
21. SIGNATURE OF MEMBER BEING SEPARATED						
SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)						
23. TYPE OF SEPARATION			24. CHARACTER OF SERVICE (include upgrades) M			
25. SEPARATION AUTHORITY			26. SEPARATION CODE		27. REENTRY CODE	
28. NARRATIVE REASON FOR SEPARATION						
29. DATES OF TIME LOST DURING THIS PERIOD				30. MEMBER REQUESTS COPY 4 Initials		

DD Form 214WS, NOV 88 Previous editions are obsolete. U.S. GOVERNMENT PRINTING OFFICE: 1989-247-979:32525 MEMBER - 4

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2. DD Form 215, Correction to DD Form 214, Certificate of Release or Discharge from Active Duty. DD Form 215 is issued by each branch of the Armed Forces to amend items incorrectly shown on, or to add data omitted from, the DD Form 214. When an ex-servicemember presents both DD Form 214 and a corresponding DD Form 215, properly completed, the State agency will use both forms to process a UCX claim. A copy of such DD Form 215 will be obtained for inclusion in the State agency's records together with the DD Form 214.

a. Facsimile of DD Form 215.

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES		ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID
1. NAME (Last, first, middle)	2. DEPARTMENT, COMPONENT AND BRANCH	3. SOCIAL SECURITY NO. (Also, Service Number if applicable)
4. MAILING ADDRESS (Include ZIP Code)		
5. ORIGINAL DD FORM 214 IS CORRECTED AS INDICATED BELOW		
ITEM NO.	CORRECTED TO READ	
	SEPARATION DATE ON DD FORM 214 BEING CORRECTED: _____	
6. DATE	7. TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN	

DD FORM 215
1 JUL 79
S/N 0102-LF-000-2150

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

CORRECTION TO DD FORM 214, CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

MEMBER - 1

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3. NOAA Form 56-16, Report of Transfer or Discharge. A NOAA Form 56-16 is issued to each commissioned officer separated from the National Oceanic and Atmospheric Administration (NOAA). This form is used by State agencies in the same manner as the DD Form 214 for determining entitlement to UCX benefits. Entries on the Form ETA 841 (ES-970) should be taken from the NOAA Form 56-16. Comparable items on Form ETA-841 and NOAA Form 56-16 are:

<u>Item</u>	<u>Form ETA 841</u>	<u>NOAA Form 56-16</u>
Name	1	1
SSN	2	2
Branch of Service	6	3
Character of Service	7	12a
Narrative Reason for Separation	8	10c/22
Entry Date	9	13c
Separation Date	10	10d
Days Lost	11	19
Accrued Leave	12	22
Retiree	14	10c & 12b
Pay Grade	15	4b

The Form ETA 843 will be used to help a former officer of NOAA obtain a NOAA Form 56-16 or information needed to process the UCX claim.

Form ETA 843 should be addressed to:

U.S. Department of Commerce
National Oceanic and Atmospheric
Administration (NOAA)
NOAA Corps Commissioned Personnel Center
Room 12100, Building 3
1315 East-West Highway
Silver Spring, Maryland 20910-3233*

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3. NOAA Form 56-16, Report of Transfer or Discharge. Cont'd

a. Facsimile of NOAA Form 56-16.

10/06/84 11:28 3817134140 NOAA/CPC 002

THIS IS AN IMPORTANT DOCUMENT, SAFEGUARD IT

NOAA FORM 56-16		U.S. DEPARTMENT OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION	
1. LAST NAME - FIRST NAME - MIDDLE NAME		2. SOCIAL SECURITY NUMBER	
3. BRANCH OF SERVICE COMMISSIONED CORPS NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION		4a. GRADE	b. PAY GD.
6. U.S. CITIZEN <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		7. PLACE OF BIRTH (City and State or Country)	
8a. SELECTIVE SERVICE NO.		b. SELECTIVE SERVICE	
10a. TYPE OF TRANSFER OR DISCHARGE		b. STATION OR INSTALLATION AT WHICH EFFECTED	
c. REASON AND AUTHORITY		d. EFFECT DATE: MONTH DAY YEAR	
11. LAST DUTY ASSIGNMENT		12a. CHARACTER OF SERVICE HONORABLE	b. TYPE OF CERTIFICATE ISSUED
13. CURRENT ACTIVE SERVICE a. SOURCE OF ENTRY <input checked="" type="checkbox"/> ORIGINAL APPOINTMENT <input type="checkbox"/> REAPPOINTMENT <input type="checkbox"/> OTHER (Specify)		b. TERM OF SERVICE INDEFINITE	c. DATE OF ENTRY: MONTH DAY YEAR
15. HOME OF RECORD AT TIME OF ENTRY INTO ACTIVE SERVICE (Street or RFD, City, Country, State and Zip Code)		14. PLACE OF ENTRY INTO CURRENT ACTIVE SERVICE (City & State)	
16. STATEMENT OF SERVICE		YEARS	MONTHS
a. CREDITABLE		// NET SER. THIS PD.	
FOR BASIC PAY PURPOSES (// TOTAL (Lines 1 + 2))		// OTHER SERVICE	
b. TOTAL ACTIVE SERVICE		// TOTAL (Lines 1 + 2)	
c. FOREIGN AND/OR SEA SERVICE			
17. DECORATIONS, MEDALS, BADGES, COMMENDATIONS, CITATIONS, AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED:			
18. EDUCATION AND TRAINING COMPLETED:			
19. NON-PAY PERIODS TIME LOST (Preceding two years)			
20. SERVICEMEN'S GROUP LIFE INSURANCE COVERAGE <input type="checkbox"/> \$100,000 <input type="checkbox"/> OTHER: _____ <input type="checkbox"/> NONE		21. VA CLAIM NUMBER C _____	
22. REMARKS			
28. PERMANENT ADDRESS FOR MAILING PURPOSES AFTER TRANSFER OR DISCHARGE (Street or RFD, City, Country, State and Zip Code)		24. TYPED NAME, GRADE, AND TITLE OF AUTHORIZING OFFICIAL	
		25. SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN	
		26. DATE OF ISSUE	

NOAA FORM 56-16 (11-80)

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4. Form ETA 841 (Formerly ES Form 970), Request for Determination of Federal Military Service and Wages - UCX.

a. Facsimile of Form ETA 841.

Form ES-970 (Rev. 1-90)

(STATE AGENCY)						Local Office	
REQUEST FOR DETERMINATION OF FEDERAL MILITARY SERVICE AND WAGES - UCX						Date New Claim Filed	
1. Name (Last, First, Middle)				2. Social Security Number(s)			
3. Have you filed an unemployment compensation claim under any State or Federal law (UI, UCFE, UCX) since your most recent separation from active military service?						YES	NO
(NOTE: Correct answer may be "YES" if you filed a claim even if you did not receive any benefit payments).							
4. If "YES", When?			5. Where?				
ACTIVE MILITARY SERVICE: (List all service, most recent first, any day of which was during the base or lag period.)							
6. Service Branch	7. Character of Service	8. Are you a Military Retiree?		9. Entry Date	10. Separation Date	11. Days Lost (Dates)	12. No. Days Accrued Leave
		YES	NO				
		<input type="checkbox"/>	<input type="checkbox"/>				
13. Ending date of most recent accrued leave period:				14. Ex-Service Person's Last Pay Grade	E--	W--	O--
15. HAVE YOU APPLIED FOR, OR ARE YOU RECEIVING, FROM THE VETERANS ADMINISTRATION:						YES	NO
a. A subsistence allowance for vocational rehabilitation training (38 U.S.C. ch. 31)?							
b. A war orphan's or widow's educational assistance allowance (38 U.S.C. ch. 35)?							
CERTIFICATION: I, the claimant, hereby request a determination of Federal military service under the Federal UCX law (5 U.S.C. 8501 et seq.) with respect to all active military service performed in the last...18...months. I certify that the information shown above is, to the best of my knowledge, correct and complete. I am aware of the penalties for making false statements.							
16. Claimant's Signature			17. Date	18. Interviewer's Signature		19. Date	
20. STATE AGENCY USE ONLY: If answer to Item 3 is "YES," was a benefit year established?				<input type="checkbox"/> YES <input type="checkbox"/> NO			
21. Ex-Serviceperson's Wage Rate (From Federal Schedule; 20 CFR, part 614)			a. Per Month \$		b. Per Day \$		
22. Ex-Serviceperson's Federal Military Service and Wages							
a. Base Period*				b. Lag Period*			
QUARTER ENDING	FEDERAL MILITARY SERVICE		FEDERAL MIL. WAGES*	QUARTER ENDING	FEDERAL MILITARY SERVICE		FEDERAL MIL. WAGES*
	Months	Days			Months	Days	
TOTAL UCX WAGES IN BASE PERIOD			\$	TOTAL UCX WAGES IN LAG PERIOD			\$
*NOTE: Federal military wages equal Federal military service multiplied by Item 21.							
23. Date UCX Inquiry Made to LCCC							

24. If you believe any military service information on which this determination is based is incorrect or substantially incomplete, you may request reconsideration as follows:

- (a) Information obtained from your separation papers:
Send a request directly to your branch of service and notify your local unemployment compensation claims office.
- (b) Information supplied by the Veterans Administration:
File a request in your local unemployment compensation claims office for transmittal to the Veterans Administration.

These actions must take place by _____. File an appeal within such period to protect your appeal rights while your request under (a) or (b) is being considered. This office will assist you, if needed. If you appeal, you should continue to file claims until a final decision is rendered or you return to work.

ETA 841

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b. Purpose and Use. The Form ETA 841 is used to record information obtained from the claimant about prior filings and the receipt of allowances from the Department of Veterans Affairs and compile information from the DD Form 214 (and 215) to determine military service and wages for assignment and upon which to base a determination of UCX entitlement/eligibility. It is completed when an ex-servicemember files a UCX or Joint UCX\UI\UCFE "first claim" for unemployment compensation whether or not the claim results in assignment of Federal military service and wages.

Although the information posted in items 6 - 13 on the Form ETA 841 is taken from the DD Form 214, the ex-servicemember certifies under penalty of prosecution the validity of all information used in items 1 - 16 as the basis of UCX entitlement/eligibility. This certification is designed to deter an ex-servicemember from knowingly presenting an altered DD Form 214 and others from presenting fraudulent DD Form 214s to request UCX determinations.

State agency procedure should identify Local Office and Central Office duties and responsibilities with respect to the completion of the Form ETA 841. State agencies using self-applications for the new claims process, including mail claims, may ask the ex-servicemember to complete some items on the Form ETA 841.

NOTE: Pertinent DD Form 214 information received from the LCCC may be used to complete the Form ETA 841. Additionally, the State agency should base a determination of UCX entitlement/eligibility and issue payments based on a partially completed DD Form 214 supplemented by credible claimant statements certified on the Form ETA 841 (Form ES-970) while awaiting a reply to a Form ETA 843.

c. Preparation. Entries on this form will be typed or printed in ink.

(1) Local Office. Enter the identity of claimant's local office or the office of jurisdiction.

(2) Date New Claim Filed. Enter the actual date the new UCX claim is taken. The date may not necessarily be the effective date of the claim.

(3) Item 1. Enter the claimant's full name, as shown in item 1 of DD Form 214 (or 215). If the name on the UCX claim is different from the one appearing on DD Form 214 (e.g., last name of ex-servicemember changed by marriage), enter the name shown on DD Form 214 in parentheses and the claimant's current name without parentheses.

(4) Item 2. Enter the social security account number(s) shown in item 3 of the DD Form 214 or on any social security card(s) presented by the claimant, or obtained from any other

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official document, such as W-2 form or final military pay voucher. If multiple numbers are shown, identify the source of each number, in parentheses, e.g., 123-45-6789 (DD Form 215). Include dashes between digits (e.g., 123-45-6789).

(5) Items 3-5. Mark the "Yes" or "No" block of item 3. Ensure that the claimant understands the parenthetical note following that question. If item 3 is marked "Yes", complete items 4-5 and mark the "yes" or "no" block of item 21.

A "Yes" answer to item 3 shows that Federal military service and wages may have been assigned previously, either to the State in which the claim is being filed or to some other State. The State agency must determine if the prior claim resulted in a correct assignment of such service/wages. If "yes", a new assignment is not made. The State agency should determine if an additional or reopened claim will be filed, or if a new UCX claim for a second benefit year is necessary.

If the claimant answers "No" to item 3 and there is an unaccounted for period of time between separation and subsequent employment or claims filing, the claims interviewer should question the claimant to ensure the answer is correct.

(6) Items 6 Through 12. Enter information for all active U.S. military service in reverse chronological order, by separation dates, as shown in item 12b of the claimant's DD Form(s) 214, if one or more days occurred after the beginning of the State's base period for the effective date of the claim filed, whether intrastate, including combined wage, or interstate. If the first claim is filed as an interstate combined wage claim, record all the military service and wages occurring the beginning of the base period of the "paying State". In some instances, only day(s) of military accrued leave for which a lump-sum was paid, as allocated under law of the State of assignment, will occur in this period.

(a) Item 6. Enter the branch of the Armed Forces as shown in item 2 of the claimant's DD Form(s) 214. Abbreviations may be used: "A" (Army), "AF" (Air Force), "CG" (Coast Guard), "MC" (Marine Corps), and "N" (Navy).

(b) Item 7. Enter the character of service as shown in item 24 of the claimant's DD Form(s) 214.

(c) Item 8. Enter narrative reason for separation as shown in item 28 of claimant's DD Form 214.

(d) Item 9. Enter the date the claimant entered active U.S. military service (duty) for the period of service shown in item 12a on the claimant's DD Form 214. This date shall be the date of enlistment for the earliest period of continuous active service for which a DD Form 214 was not previously issued.

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voucher. If multiple numbers are shown, identify the source of each number, in parentheses, e.g., 123-45-6789 (DD Form 215). Include dashes between digits (e.g., 123-45-6789).

(5) Items 3-5. Mark the "Yes" or "No" block of item 3. Ensure that the claimant understands the parenthetical note following that question. If item 3 is marked "Yes", complete items 4-5 and mark the "yes" or "no" block of item 20.*

A "Yes" answer to item 3 shows that Federal military service and wages may have been assigned previously, either to the State in which the claim is being filed or to some other State. The State agency must determine if the prior claim resulted in a correct assignment of such service/wages. If "yes", a new assignment is not made. The State agency should determine if an additional or reopened claim will be filed, or if a new UCX claim for a second benefit year is necessary.

If the claimant answers "No" to item 3 and there is an unaccounted for period of time between separation and subsequent employment or claims filing, the claims interviewer should question the claimant to ensure the answer is correct.

(6) Items 6 Through 12. Enter information for all active U.S. military service in reverse chronological order, by separation dates, as shown in item 12b of the claimant's DD Form(s) 214, if one or more days occurred after the beginning of the State's base period for the effective date of the claim filed, whether intrastate, including combined wage, or interstate. If the first claim is filed as an interstate combined wage claim, record all the military service and wages occurring the beginning of the base period of the "paying State". In some instances, only day(s) of military accrued leave for which a lump-sum was paid, as allocated under law of the State of assignment, will occur in this period.

(a) Item 6. Enter the branch of the Armed Forces as shown in item 2 of the claimant's DD Form(s) 214. Abbreviations may be used: "A" (Army), "AF" (Air Force), "CG" (Coast Guard), "MC" (Marine Corps), and "N" (Navy).

(b) Item 7. Enter the character of service as shown in item 24 of the claimant's DD Form(s) 214.

(c) Item 8. Mark the "Yes" or "No" block. Retirement status is based on information that may be shown on the DD Form 214 or based on questioning the claimant.*

(d) Item 9. Enter the date the claimant entered active U.S. military service (duty) for the period of service shown in item 12a on the claimant's DD Form 214. This date shall be the date of enlistment for the earliest period of continuous active service for which a DD Form 214 was not previously issued.

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(e) Item 10. Enter the separation (effective) dates as shown in item 12b of the claimant's DD Form 214.

(f) Item 11. Enter beginning and ending dates of "days (time) lost" as shown in item 29 of the DD Form 214, or as determined from asking the claimant when only the number of days lost is shown without the dates. If a claimant does not know dates of days lost or the information provided appears to be questionable, the ETA 843 should be used to verify the information. If no days are lost, enter a zero "0".

(g) Item 12. Enter the number of days of military accrued leave for which a lump-sum payment was made as shown in item 16 of the DD Form 214 or on the final military pay voucher, or as determined from questioning the claimant. If there are no days of military accrued leave, enter a "zero" (0).

(h) Item 13. Enter the ending date of the period of military accrued leave, for which a lump-sum payment was made as allocated under State law, following the latest separation from active U.S. military service based on the information in items 10 and 12 of this form.

(i) Item 14.* Enter the ex-servicemember's last pay grade, i.e., E-, W-, or O-, as shown on the claimant's latest DD Form 214. When "Cadet" or "MIDN" (Midshipman) appears on DD Form 214, enter pay grade O-1. If the pay grade does not appear on the DD form 214, an ETA 843 should be sent to the appropriate branch of service.

(j) Item 15. (including a. through b.). Mark the "Yes" or "No" block for each of the two questions listed to indicate if the claimant is receiving or is entitled to receive an allowance from the Department of Veterans Affairs.*

(k)* Certification. The State agency should preprint the period of time (e.g., 18 months) or the claims interviewer should enter, the period in the certification statement. The period covered should be sufficient to cover the base period applicable to the ex-servicemember's claim, as appropriate.

(l)* Items 16-19.* The original copy of the Form ETA 841 will be signed and dated by both the claimant and the interviewer. For identification, should be compared with the signature appearing in item 21 of DD Form 214.

(m)* Item 20.* Mark the "Yes" or "No" block, as appropriate. If the answer is "Yes", the State agency must determine that the claimant's military service and wages have not been previously correctly assigned by another State prior to establishing a benefit year and authorizing payment of UCX benefits under its UI law.

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(e) Item 10. Enter the separation (effective) dates as shown in item 12b of the claimant's DD Form 214.

(f) Item 11. Enter beginning and ending dates of "days (time) lost" as shown in item 29 of the DD Form 214, or as determined from asking the claimant when only the number of days lost is shown without the dates. If a claimant does not know dates of days lost or the information provided appears to be questionable, the ETA 843 should be used to verify the information. If no days are lost, enter a zero "0".

(g) Item 12. Enter the number of days of military accrued leave for which a lump-sum payment was made as shown in item 16 of the DD Form 214 or on the final military pay voucher, or as determined from questioning the claimant. If there are no days of military accrued leave, enter a "zero" (0).

(h) Item 13. Enter the ending date of the period of military accrued leave, for which a lump-sum payment was made as allocated under State law, following the latest separation from active U.S. military service based on the information in items 10 and 12 of this form.

(i) Item 14. Mark the "Yes" or "No" block. Retirement Status is based on information that may be shown on the DD Form 214 or based on questioning the claimant.

(j) Item 15. Enter the ex-servicemember's last pay grade, i.e., E-, W-, or O-, as shown on the claimant's latest DD Form 214. When "Cadet" or "MIDN" (Midshipman) appears on DD Form 214, enter pay grade O-1. If the pay grade does not appear on the DD form 214, an ETA 843 should be sent to the appropriate branch of service.

(k) Item 16.a. through c.). Mark the "Yes" or "No" block for each question to indicate if the claimant is receiving or is entitled to receive an allowance from the Department of Veterans allowances.

(l) Certification. The State agency should preprint the period of time (e.g., 18 months) or the claims interviewer should enter, the period in the certification statement. The period covered should be sufficient to cover the base period applicable to the ex-servicemember's claim, as appropriate.

(m) Items 17-20. The original copy of the Form ETA 841 will be signed and dated by both the claimant and the interviewer. For identification, should be compared with the signature appearing in item 21 of DD Form 214.

(n) Item 21. Mark the "Yes" or "No" block, as appropriate. If the answer is "Yes", the State agency must determine that the claimant's military service and wages have not been previously correctly assigned by another State prior to

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establishing a benefit year and authorizing payment of UCX benefits under its UI law.

(o) Items 22-23. Complete items 22-23 based on the information contained in items 6 through 15 of this form. This information defines the service and wages assignable for the base and lag periods, as appropriate. When weeks of employment, or other employment information is necessary to a monetary determination, the State agency should adapt items 22-23 to record the necessary information.

Posting of the period of service and wages in these items is optional, if this information is included on the State agency's monetary determination.

(p) Item 22. Enter the claimant's monthly and daily wage rate. Calculate this information based on the claimant's pay grade at the time of separation from the latest period of Federal military service. This rate applies to the calculation of all military wages to be recorded in item 23 even if the claimant held other pay grades during the period of military service recorded.

(q) Items 23a and 23b. Enter the quarter ending dates, number of months and days of military service and total UCX wages during each such quarter applicable to the first claim. A State may wish to preprint the month and month-ending date of the last month of each calendar quarter, omitting the year, in the space provided.

Calculate the claimant's number of months and days of military service based on the information recorded in items 9 through 13 and total UCX wages based on the monthly and daily wage rate shown in item 22. (Employment and wages recorded for the lag period should be posted to the State's wage file or this form should be maintained for future use in determining base period employment and wages available for a subsequent benefit year.)

(r) Items 24a and 24b. Items 24a and b are for official use only and should only be completed on the State agency copies of this form. No entries will be made on the copy given to the claimant.

State agencies may use item 24a to record the claimant's ethnic group by entering the appropriate code number shown below:

Code 1 - W-NH - White, not Hispanic

Code 2 - B-NH - Black, not Hispanic

Code 3 - HISP - Hispanic

Code 4 - AI & AN - American Indian and Alaskan Native

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(n)* Items 21-22.* Complete items 21-22* based on the information contained in items 6 through 14 of this form. This information defines the service and wages assignable for the base and lag periods, as appropriate. When weeks of employment, or other employment information is necessary to a monetary determination, the State agency should adapt items 21-22* to record the necessary information.

Posting of the period of service and wages in these items is optional, if this information is included on the State agency's monetary determination.

(o)* Item 21.* Enter the claimant's monthly and daily wage rate. Calculate this information based on the claimant's pay grade at the time of separation from the latest period of Federal military service. This rate applies to the calculation of all military wages to be recorded in item 22* even if the claimant held other pay grades during the period of military service recorded.

(p)* Items 22a and 22b.* Enter the quarter ending dates, number of months and days of military service and total UCX wages during each such quarter applicable to the first claim. A State may wish to preprint the month and month-ending date of the last month of each calendar quarter, omitting the year, in the space provided.

Calculate the claimant's number of months and days of military service based on the information recorded in items 9 through 13 and total UCX wages based on the monthly and daily wage rate shown in item 22. (Employment and wages recorded for the lag period should be posted to the State's wage file or this form should be maintained for future use in determining base period employment and wages available for a subsequent benefit year.)

(q) Item 23. State agencies may use item 23 to record date inquiry was made to the LCCC.*

(r) Items 24a and 24b. Items 24a and b are used to request reconsideration of military service information that the ex-servicemember believes is incorrect or substantially incomplete and the State agency based its determination on that information.*

d. Number of Copies and Distribution. Sufficient copies of the Form ETA 841 are to be prepared for State agency use plus an additional copy for issuance to the claimant.

e. State Designed Alternative to Form ETA 841 (Formerly ES 970). A State agency may revise the Form ETA 841 to include the monetary determination and alter the collection of other information as necessary to the determination of entitlement/eligibility under the State law. If a State elects

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to alter the form, the redesigned form must include the entries contained on ETA 841 except that:

(1) Items 21-22* may be omitted if such information is included on the UCX monetary determination form;

(2) If the State uses employment and wages information by weeks, hours, days, etc., in its determination of entitlement, the State agency may modify items 21-22* as necessary; and

(3) Items 25a and 25b may be added. However, these items are for official use only and should only be completed on the State agency copies of this form. No entries will be made on the copy given the claimant.*

State agencies may use item 25a to record the claimant's ethnic group by entering the appropriate code number shown below:

Code 1 - W-NH - White, not Hispanic

Code 2 - B-NH - Black, not Hispanic

Code 3 - HISP - Hispanic

Code 4 - AI & AN - American Indian and Alaskan Native

Code 5 - Asian & Pac Is. - Asian and Pacific Islander

Code 6 - INA - Information not available*

State agencies should leave item 25b blank.*

Any other proposed modification of this form should be submitted to the appropriate ETA Regional Office for review and approval.

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Code 5 - Asian & Pac Is. - Asian and Pacific Islander

Code 6 - INA - Information not available

State agencies should leave item 24b blank.

d. Number of Copies and Distribution. Sufficient copies of the Form ETA 841 are to be prepared for State agency use plus an additional copy for issuance to the claimant.

e. State Designed Alternative to Form ETA 841 (Formerly ES 970). A State agency may revise the Form ETA 841 to include the monetary determination and alter the collection of other information as necessary to the determination of entitlement/eligibility under the State law. If a State elects to alter the form, the redesigned form must include the entries contained on ETA 841 except that:

(1) Items 22-23 may be omitted if such information is included on the UCX monetary determination form;

(2) If the State uses employment and wages information by weeks, hours, days, etc., in its determination of entitlement, the State agency may modify items 22-23 as necessary; and

(3) Item 24 may be omitted if unnecessary.

Any other proposed modification of this form should be submitted to the appropriate ETA Regional Office for review and approval.

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b. Purpose and Use. The ETA Form 843 prescribed for State agency use in requesting or clarifying essential information, omitted or incorrect on the DD Form 214 or 215, needed to determine UCX entitlement and eligibility, including obtaining a copy of the DD Form 214 or 215, if requested by the claimant (Any reference to the DD Form 214/215 applies to the NOAA Form 56-16.). However, use of this form does not preclude the claimant from independently obtaining such document or information. The ETA 843 should not be used if information from the LCCC will suffice.

The ex-servicemember is responsible for obtaining and presenting a legible and properly completed DD Form(s) 214/215 to the State agency when filing a "first claim" for benefits. Therefore, the State agency's function is limited to assisting the claimant in meeting this responsibility. The Form ETA 843 should not be used for nonessential purposes such as a mere convenience to the claimant to correct allegedly incorrect DD Form 214 entries for non-UCX purposes.

When the Form ETA 843 is used to request essential data omitted, or incorrectly shown on the DD Form 214, the completed Form ETA 843 supplements the DD Form 214 as a source document for the determination of UCX entitlement/eligibility.

To request a copy of the DD Form 214, the local office should send a Form ETA 843 request directly to the appropriate branch of the Armed Forces with a copy sent to the State agency's central office. When the Form ETA 843 is requesting clarification of essential data on DD Forms 214/215, the Form ETA 843 request should be reviewed by the State agency's central office prior to transmittal to ensure its necessity.

c. State Agency Adaptation of Form ETA 843. Each State agency must reproduce Form ETA 843 as designed by the Department except that it may print the form in a manner to provide for the addressee on the face of the form and to provide for the collection of information in the form needed by the State, i.e., weeks of employment.

d. Number of Copies and Distribution. The Form ETA 843 should be prepared in sufficient copies for State agency use, plus an additional copy for retention by the appropriate branch of the Armed Forces or by the military records center, as applicable. The original and at least one copy will be sent to the appropriate branch of the Armed Forces or the military records center when requesting information. For item 16 requests, a copy of DD Form(s) 214/215 will be attached to the Form ETA 843.

NOTE: In some cases, such as multipurpose requests to the Army and Marine Corps for military accrued leave data and for other omitted information, two separate Form ETA 8-43 requests will be sent.

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e. Preparation. The State agency will complete all entries in Sections I and II, as appropriate and obtain the claimant's signature. All State agency entries should be typed or printed in ink.

(1) Section I - Identification Data. Enter the appropriate information in all spaces provided in Section I, based on data on the ex-servicemember's DD Form 214 (if available) supplemented by questioning the claimant. If military information is needed from more than one branch of the Armed Forces, a separate Form ETA 843 should be prepared for each such branch. Dates of entry and separation in items 5 and 6 should conform to a specific period of service. If appropriate, complete items 10 through 11c after asking the claimant about his/her military reserve/National Guard status.

(2) Document/Information Requested. If item 14 is marked, mark either 14a or 14b, as appropriate. For requests sent to the Army and Marine Corps concerning both items 15 and 16, two separate Form ETA 843s are required.

If other information essential to the UCX claims determination process is required, mark item 16 and, if possible, attach a copy of DD Form 214. The following terminology must be used for all omissions of DD Forms 214 entries described in item 16:

(a) "Entry date (item 12a) omitted on DD Form 214; please furnish."

(b) "Separation (effective) date (item 12b) omitted on DD Form 214; please furnish."

(c) "Character of service (item 24) omitted on DD Form 214; please furnish."

(d) "Time (days) lost (item 29) omitted on DD Form 214; please furnish dates."

(e) "Pay grade (E, W, or O) omitted on DD Form 214; please furnish."

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When requesting corrections of apparent errors or clarification of items shown on the DD Form 214, a copy of the DD Form 214 should be attached to the Form ETA 843 request and the information being questioned clearly identified.

The Form ETA 843 is not used by a State agency to verify the claimant's social security number. If a claimant presents the social security card, whether or not the number shown in item 3 of DD Form 214 agrees, the State should maintain the claimant's records under the number on the card and carry the additional number in the claim records files.

(3) Release Authorization. The Form ETA 843 request must always be signed and dated by the ex-servicemember.

f. Military Addresses.

(1) Obtaining Military Accrued Leave Information

<u>Armed Forces Branch</u>	<u>Address</u>
Army	DFAS-IN-UCX Post Office Box 269399 Indianapolis, Indiana 46226-9399
Marine Corps	Defense Finance and Accounting Service-Kansas City Center 1500 East 95th Street Kansas City, Missouri 64197-0001
Air Force	HQ AFMPC/DPPTU ATTN: Mary Stigers 550 C Street West Suite 11 Randolph AFB, Texas 78150-4713*

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Coast Guard	Commander Coast Guard Personnel Command 2100 2nd Street, S.W. Washington, D.C. 20593-0001 CGPC-Adm-3 Attention: Valeria Smith*
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Navy	Bureau of Naval Personnel Attn: Karen Stanton UCX Liaison Officer 5720 Integrity Drive Millington, TN 38055-3120*
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(2) **Obtaining DD Forms 214.** When the State agency helps the claimant to request a completed DD Form 214 or other essential information, excluding military accrued leave, it should direct the Form ETA 843 request to the appropriate address for the branch of the Armed Forces listed below:

<u>Armed Forces Branch</u>	<u>Address</u>
Air Force	HQ AFMPC/DPPTU ATTN: Mary Stigers 550 C Street West Suite 11 Randolph AFB, Texas 78150-4713*
Army	DFAS-IN-UCX Post Office Box 269399 Indianapolis, Indiana 46226-9399
Coast Guard	Commander Coast Guard Personnel Command 2100 2nd Street, S.W. Washington, D.C. 20593-0001 CGPC-Adm-3 Attention: Valeria Smith*

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Marine Corps

- Officer in Reserves
 - Enlisted Code
 - Personnel in organized reserves
 - Personnel on the temporary disability retired list, and
 - All personnel separated less than 4 months.
- MC-HQ USMC
Code MMSB-15 (for SSN ending in 01-49) MMSB-14 (for SSN ending in 50-00)
2008 Elliot Road
Quantico, Virginia 22134-5030

Personnel in none of the above categories.

National Personnel Records Center
(Military Personnel Records)
9700 Page Boulevard
St. Louis Missouri 63132

Navy

Bureau of Naval Personnel
Attn: Karen Stanton
UCX Liaison Officer
5720 Integrity Drive
Millington, TN 38055-3120*

(3) Obtaining NOAA Form 56-16. When the State agency helps the claimant request a completed NOAA Form 56-16 or certain essential information generally shown on such a form, it should direct its request to:

NOAA Commissioned Personnel Center
1315 East West Highway, Room 12100
Silver Spring, Maryland 20910-3282
Attention: Steve Eisenberg*

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g. Follow-up Action.

(1) **No Response to Request for DD Form 214.** Since DD Form 214 is essential to UCX entitlement, the State agency should initiate prompt action on any delay in receiving such form when requested by a Form ETA 843. If all of the State agency's efforts are unsuccessful, the claimant should be advised that it will be his/her responsibility to follow-up. Without a DD Form 214 or information supplied by the LCCC, no UCX benefits will be paid, and a monetary determination should be withheld until a DD Form 214 is received. If a DD Form 214 is not received, a monetary determination of ineligibility for UCX benefits shall be made.

(2) **Request for Military Information.** If, after appropriate follow-up action by the State agency for data omitted on DD Form(s) 214/215, or for verification of data shown on such form(s), there is no response within 60 days after the initial Form ETA 843 was sent, the State agency will discontinue its follow-up actions and consider its tentative UCX determination to be final. However, if the branch of the Armed Forces later provides the requested information, the State agency should make any necessary redetermination of entitlement permitted under the State law.

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h. Federal Agency Reply. The appropriate branch of the Armed Forces or the military records center will complete the file reference number if used as an internal control designator and Section III of the Form ETA 843. The branch of the Armed Forces or the military records center will return the completed Form ETA 843 to the address provided by the State agency.

If the State agency used the Form ETA 843 to obtain a copy of the DD Form 214, upon receipt, a copy will be made for the agency's records and the original will be mailed or otherwise delivered to the claimant. If item 17b is marked, the failure of the military activity to attach a DD Form 214 will be explained.

6. Request for Military Record or Correction of Military Record. The DD Form 149 and Standard Form 180 may be reproduced by the State agency to provide for a claimant's use in obtaining required information from the military.

DD Form 149 (Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552) and Standard Form 180 (Request Pertaining to Military Records) are recognized by each branch of the military and can be used by a claimant who may need a correction of their military records or some additional information pertaining to the military records. If the State agency decides to make these forms available to claimants, it will be the State agency's responsibility to reproduce the forms. **The use of Form DD 149 and Standard Form 180 does not replace Form ETA 843.**

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a. Facsimile of DD Form 149, Application for Correction of Military Record

APPLICATION FOR CORRECTION OF MILITARY RECORD UNDER THE PROVISIONS OF TITLE 10, U.S. CODE, SECTION 1552 <small>(Please read instructions on Page 2 BEFORE completing application.)</small>		Form Approved OMB No. 0704-0003 Expires Mar 31, 1996
Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1216 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget Paperwork Reduction Project (0704-0003), Washington, DC 20503.		
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON PAGE 2 OF THIS FORM.		
AUTHORITY: The 10, U.S. Code 1552, EO 8327.		PRIVACY ACT STATEMENT
PRINCIPAL PURPOSE: To initiate an application for correction of military record. The form is used by Board members for review of pertinent information in making a determination of what through correction of a military record.		
ROUTINE USES: None.		
DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security number is solely to secure proper identification of the individual and appropriate results.		
1. APPLICANT DATA		
a. BRANCH OF SERVICE (X one) <input type="checkbox"/> (1) ARMY <input type="checkbox"/> (2) NAVY <input type="checkbox"/> (3) AIR FORCE <input type="checkbox"/> (4) MARINE CORPS <input type="checkbox"/> (5) COAST GUARD		
b. NAME (Last, First, Middle Initial) (Please print)		c. PRESENT PAY GRADE
		d. SERVICE NUMBER (if applicable)
		e. SOCIAL SECURITY NUMBER
2. TYPE OF DISCHARGE (If by court-martial, state type of court.)		3. PRESENT STATUS, IF ANY, WITH RESPECT TO THE ARMED SERVICES (Active duty, Reserve, Reserve, etc.)
		4. DATE OF DISCHARGE OR RELEASE FROM ACTIVE DUTY
5. ORGANIZATION AT TIME OF ALLEGED ERROR IN RECORD		a. I DESIRE TO APPEAR BEFORE THE BOARD IN WASHINGTON, D.C. (No response to the Government) (X one)
		<input type="checkbox"/> 3. YES <input type="checkbox"/> 6. NO
7. COUNSEL (if any)		b. ADDRESS (Street, City, State and Zip Code)
a. NAME (Last, First, Middle Initial)		
8. I REQUEST THE FOLLOWING CORRECTION OF ERROR OR INJUSTICE:		
9. I BELIEVE THE RECORD TO BE IN ERROR OR UNJUST IN THE FOLLOWING PARTICULARS:		
10. IN SUPPORT OF THIS APPLICATION I SUBMIT AS EVIDENCE THE FOLLOWING (If Veterans Administration records are pertinent to your case, give Regional Office location and Case Number.)		
11. ALLEGED ERROR OR INJUSTICE		
a. DATE OF DISCOVERY	b. IF MORE THAN THREE YEARS SINCE THE ALLEGED ERROR OR INJUSTICE WAS DISCOVERED, STATE WHY THE BOARD SHOULD FIND IT IN THE INTEREST OF JUSTICE TO CONSIDER THIS APPLICATION.	
12. APPLICANT MUST SIGN IN ITEM 16. IF THE RECORD IN QUESTION IS THAT OF A DECEASED OR INCOMPETENT PERSON, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY APPLICATION. IF APPLICATION IS SIGNED BY OTHER THAN APPLICANT, INDICATE RELATIONSHIP OR STATUS BY MARKING APPROPRIATE BOX.		
<input type="checkbox"/> a. SPOUSE <input type="checkbox"/> b. WIDOW <input type="checkbox"/> c. WIDOWER <input type="checkbox"/> d. NEXT OF KIN <input type="checkbox"/> e. LEGAL REP <input type="checkbox"/> f. OTHER (Specify)		
13. I MAKE THE FOREGOING STATEMENTS, AS PART OF MY CLAIM WITH FULL KNOWLEDGE OF THE PENALTIES INVOLVED FOR WILLFULLY MAKING A FALSE STATEMENT OR CLAIM. (U.S. Code, Title 18, Sec. 287, 1001, provides a penalty of not more than \$10,000 fine or not more than 5 years imprisonment or both.)		
14. COMPLETE CURRENT ADDRESS, INCLUDING ZIP CODE (Applicant should forward notification of all changes of address.)		DOCUMENT NUMBER (Do not write in this space.)
15. DATE SIGNED		16. SIGNATURE (Applicant must sign here.)

DD Form 149, AUG 93

Previous editions are obsolete.

**ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)**

CHAPTER VI - FORMS AND COMPLETION INSTRUCTIONS

a. Facsimile of DD Form 149, Application for Correction of Military Record - Cont'd

Reverse Side

INSTRUCTIONS <i>(All data should be typed or printed)</i>	
<ol style="list-style-type: none"> 1. For detailed information see: Air Force Regulation 31-3; Army Regulation 15-185; Coast Guard, Code of Federal Regulations; Title 33, Part 52; or Navy, NAVEXOS P-473, as revised. 2. Submit only original of this form. 3. Complete all items. If the question is not applicable, mark "None." 4. If space is insufficient, use "Remarks" or attach additional sheet. 5. Various veterans and service organizations furnish counsel without charge. These organizations prefer that arrangements for representation be made through local posts or chapters. 6. List all attachments and enclosures. 7. ITEMS 6 AND 7. Personal appearance of you and your witnesses or representation by counsel is not required to ensure full and impartial consideration of applications. Appearances and representations are permitted, at no expense to the Government, when a hearing is authorized. 8. ITEM 8. State the specific correction of record desired. 9. ITEM 9. In order to justify correction of a military record, it is necessary for you to show to the satisfaction of the Board, or it must otherwise satisfactorily appear, that the alleged error or omission in the record was in error or unjust. Evidence may include affidavits or signed testimony of witnesses, executed under oath, and a brief of arguments supporting application. All evidence not already included in your record must be submitted by you. The responsibility for securing new evidence rests with you. 10. ITEM 11. 10 U.S.C. 1552b provides that no correction may be made unless request is made within three years after the discovery of the error or injustice, but that the Board may excuse failure to file within three years after discovery if it finds it to be in the interest of justice. 	
MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW	
<p style="text-align: center;">ARMY</p> <p>(For Active Duty Personnel) Army Board for Correction of Military Records Department of the Army, 2nd Floor 1941 Jefferson Davis Highway Arlington, VA 22202-4508</p> <p>(For Other than Active Duty Personnel) CO. USARP/PCEN ATTN: DARP-VSA-A 9700 Page Blvd. St. Louis, MO 63132-5200</p>	<p style="text-align: center;">COAST GUARD</p> <p>Chairman Board for Correction of Military Records (C-60) Department of Transportation 400 7th St. SW Washington, DC 20590</p>
<p style="text-align: center;">NAVY AND MARINE CORPS</p> <p>Board for Correction of Naval Records Department of the Navy Washington, DC 02370-5100</p>	<p style="text-align: center;">AIR FORCE</p> <p>Board for Correction of Air Force Records ATTN: SAF/MIBR 550-C Street West A Wing, Basement Randolph AFB, TX 78150-4722</p>
<p>17. REMARKS (Applicant has exhausted all administrative channels in seeking this correction and has been counseled by a representative of his/her servicing military personnel office. (Applicable only to active duty and reserve personnel.)</p>	

DD Form 149, AUG 93 (Page 2)

**ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)**

CHAPTER VI - FORMS AND COMPLETION INSTRUCTIONS

b. Facsimile of Standard Form 180 Request Pertaining to Military Record

REQUEST PERTAINING TO MILITARY RECORDS	<small>Please read instructions on the reverse. If more space is needed, use plain paper.</small>	DATE OF REQUEST		
<p>PRIVACY ACT OF 1974 COMPLIANCE INFORMATION. The following information is provided in accordance with 5 U.S.C. 552(a)(2) and applies to this form. Authority for collection of the information is 44 U.S.C. 2907, 3101, and 3103, and E.O. 9377 of November 22, 1943. Disclosure of the information is voluntary. The principal purpose of the information is to assist the facility servicing the records in locating and verifying the correctness of the requested records or information to answer your inquiry. Routine uses of the information as established and published in accordance with 5 U.S.C. 552(a)(2)(D) include the transfer of relevant information to appropriate Federal, State, local, or foreign agencies for use in civil, criminal, or regulatory investigations or prosecutions. In addition, this form will be filed with the appropriate military records and may be transferred along with the record to another agency in accordance with the routine uses established by the agency which maintains the record. If the requested information is not provided, it may not be possible to service your inquiry.</p>				
SECTION I—INFORMATION NEEDED TO LOCATE RECORDS (Furnish as much as possible)				
1. NAME USED DURING SERVICE (Last, first, and middle)	2. SOCIAL SECURITY NO.	3. DATE OF BIRTH		
4. PLACE OF BIRTH				
5. ACTIVE SERVICE, PAST AND PRESENT (For an effective records search, it is important that ALL service be shown below)				
BRANCH OF SERVICE <small>(Also, show last organization, if known)</small>	DATES OF ACTIVE SERVICE		Check one OFFICER LISTED ENLISTED	SERVICE NUMBER DURING THIS PERIOD
	DATE ENTERED	DATE RELEASED		
6. RESERVE SERVICE, PAST OR PRESENT <small>If "none," check here <input type="checkbox"/></small>	a. DATES OF MEMBERSHIP		Check one OFFICER LISTED ENLISTED	SERVICE NUMBER DURING THIS PERIOD
b. BRANCH OF SERVICE	FROM	TO		
7. NATIONAL GUARD MEMBERSHIP <small>(Check one)</small> <input type="checkbox"/> a. ARMY <input type="checkbox"/> b. AIR FORCE <input type="checkbox"/> c. NAVY	d. DATES OF MEMBERSHIP		Check one OFFICER LISTED ENLISTED	SERVICE NUMBER DURING THIS PERIOD
e. STATE ORGANIZATION	FROM	TO		
8. IS SERVICE PERSON DECEASED <input type="checkbox"/> YES <input type="checkbox"/> NO <small>If "yes," enter date of death.</small>			9. IS (WAS) INDIVIDUAL A MILITARY RESERVE OR FLEET RESERVIST <input type="checkbox"/> YES <input type="checkbox"/> NO	
SECTION II—REQUEST				
1. EXPLAIN WHAT INFORMATION OR DOCUMENTS YOU NEED, OR CHECK ITEM 2, OR COMPLETE ITEM 3			2. IF YOU ONLY NEED A STATEMENT OF SERVICE <small>check here</small> <input type="checkbox"/>	
3. LOST SEPARATION DOCUMENT REPLACEMENT REQUEST <small>(Complete a or b, and c)</small>	<input type="checkbox"/> a. REPORT OF SEPARATION (DD Form 214 or equivalent)	YEAR ISSUED	This contains information normally needed to determine eligibility for benefits. It may be furnished only to the veteran, the surviving next of kin, or to a representative with veteran's signed release (Item 5 of this form).	
	<input type="checkbox"/> b. DISCHARGE CERTIFICATE	YEAR ISSUED	This shows only the date and character of discharge. It is of little value in determining eligibility for benefits. It may be issued only to veterans discharged honorably or under honorable conditions, or, if deceased, to the surviving spouse.	
c. EXPLAIN HOW SEPARATION DOCUMENT WAS LOST				
4. EXPLAIN PURPOSE FOR WHICH INFORMATION OR DOCUMENTS ARE NEEDED			6. REQUESTER	
5. RELEASE AUTHORIZATION, IF REQUIRED <small>(Read instruction 3 on reverse side)</small> I hereby authorize release of the requested information/documents to the person indicated at right (item 7). VETERAN SIGN HERE <input type="text"/> <small>(If signed by other than veteran, show relationship to veteran.)</small>			a. IDENTIFICATION (check appropriate box)	
			<input type="checkbox"/> Same person identified in Section I <input type="checkbox"/> Surviving spouse <input type="checkbox"/> Next of kin relationship _____ <input type="checkbox"/> Other (specify) _____	
7. Please type or print clearly — COMPLETE RETURN ADDRESS Name, number and street, city, State and ZIP code <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> TELEPHONE NO. (include area code) <input type="text"/>			b. SIGNATURE (See instructions 3 and 4 on reverse side)	

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**ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)**

CHAPTER VI - FORMS AND COMPLETION INSTRUCTIONS

**b. Facsimile of Standard Form 180 Request Pertaining to
Military Record - Cont'd**

Reverse Side

INSTRUCTIONS

1. Information needed to locate records. Certain identifying information is necessary to determine the location of an individual's record of military service. Please give careful consideration to and answer each item on this form. If you do not have and cannot obtain the information for an item, show "NA," meaning the information is "not available." Include as much of the requested information as you can. This will help us to give you the best possible service.

2. Charges for service. A nominal fee is charged for certain types of service. In most instances service fees cannot be determined in advance. If your request involves a service fee you will be notified as soon as that determination is made.

3. Restrictions on release of information. Information from records of military personnel is released subject to restrictions imposed by the military departments consistent with the provisions of the Freedom of Information Act of 1967 (as amended 1974) and the Privacy Act of 1974. A service person has access to almost any information contained in his own record. The next of kin (see item 4 of instructions) if the veteran is deceased and Federal officers for official purposes are authorized to receive information from a military service or medical record only as specified in the above cited Acts. Other requesters must have the release authorization, in item 3 of the form, signed by the

veteran or, if deceased, by the next of kin. Employers and others needing proof of military services are expected to accept the information shown on documents issued by the Armed Forces at the time a service person is separated.

4. Precedence of next of kin. The order of precedence of the next of kin is: unmarried widow or widower, eldest son or daughter, father or mother, eldest brother or sister.

5. Location of military personnel records. The various categories of military personnel records are described in the chart below. For each category there is a code number which indicates the address at the bottom of the page to which this request should be sent. For each military service there is a note explaining approximately how long the records are held by the military service before they are transferred to the National Personnel Records Center, St. Louis. Please read these notes carefully and make sure you send your inquiry to the right address. (If the person has two or more periods of service within the same branch, send your request to the office having the record for the last period of service.)

6. Definitions for abbreviations used below:

NPRC—National Personnel Records Center PERS—Personnel Records
TDRL—Temporary Disability Retirement List MED—Medical Records

SERVICE	NOTE	CATEGORY OF RECORDS	WHERE TO WRITE ADDRESS CODE	
AIR FORCE (USAF)	<i>Air Force records are transferred to NPRC from Code 1, 90 days after separation and from Code 2, 30 days after separation.</i>	Active members (includes National Guard on active duty in the Air Force), TDRL, and general officers retired with pay.	1	
		Reserve, retired reservist in nonpay status, current National Guard officers not on active duty in Air Force, and National Guard released from active duty in Air Force.	2	
		Current National Guard enlisted not on active duty in Air Force.	13	
		Discharged, deceased, and retired with pay (except general officers retired with pay).	14	
COAST GUARD (USCG)	<i>Coast Guard officer and enlisted records are transferred to NPRC 3-6 months after separation.</i>	Active, reserve, and TDRL members.	3	
		Discharged, deceased, and retired members (see next item).	14	
		Officers separated before 1/1/29 and enlisted personnel separated before 1/1/15.	6	
MARINE CORPS (USMC)	<i>Marine Corps records are transferred to NPRC 4 months after separation.</i>	Active and TDRL members, reserve officers, and Class II enlisted reserve.	4	
		Class III reservists and Fleet Marine Corps Reserve members.	5	
		Discharged, deceased, and retired members (see next item).	14	
		Officers and enlisted personnel separated before 1/1/1896.	6	
ARMY (USA)	<i>Army records are transferred to NPRC as soon as processed (about 30 days after separation).</i>	Reserve, living retired members, retired general officers, and active duty records of current National Guard members who performed service in the U.S. Army before 7/1/72.*	7	
		Active officers (including National Guard on active duty in the U.S. Army).	8	
		Active enlisted (including National Guard on active duty in the U.S. Army) and enlisted TDRL.	9	
		Current National Guard officers not on active duty in the U.S. Army.	12	
		Current National Guard enlisted not on active duty in the U.S. Army.	13	
		Discharged and deceased members (see next item).	14	
		Officers separated before 7/1/17 and enlisted separated before 11/1/12.	6	
		Officers and warrant officers TDRL.	8	
NAVY (USN)	<i>Navy records are transferred to NPRC 6 months after retirement or complete separation.</i>	Active members (including reservists on active duty)—PERS and MED	10	
		Discharged, deceased, retired (with and without pay) less than six months, TDRL, drilling and nondrilling reservists	PERS only MED only	10 11
		Discharged, deceased, retired (with and without pay) more than six months (see next item)—PERS & MED	14	
		Officers separated before 1/1/03 and enlisted separated before 1/1/1886—PERS and MED	6	

* Code 12 applies to active duty records of current National Guard officers who performed service in the U.S. Army after 6/30/72.

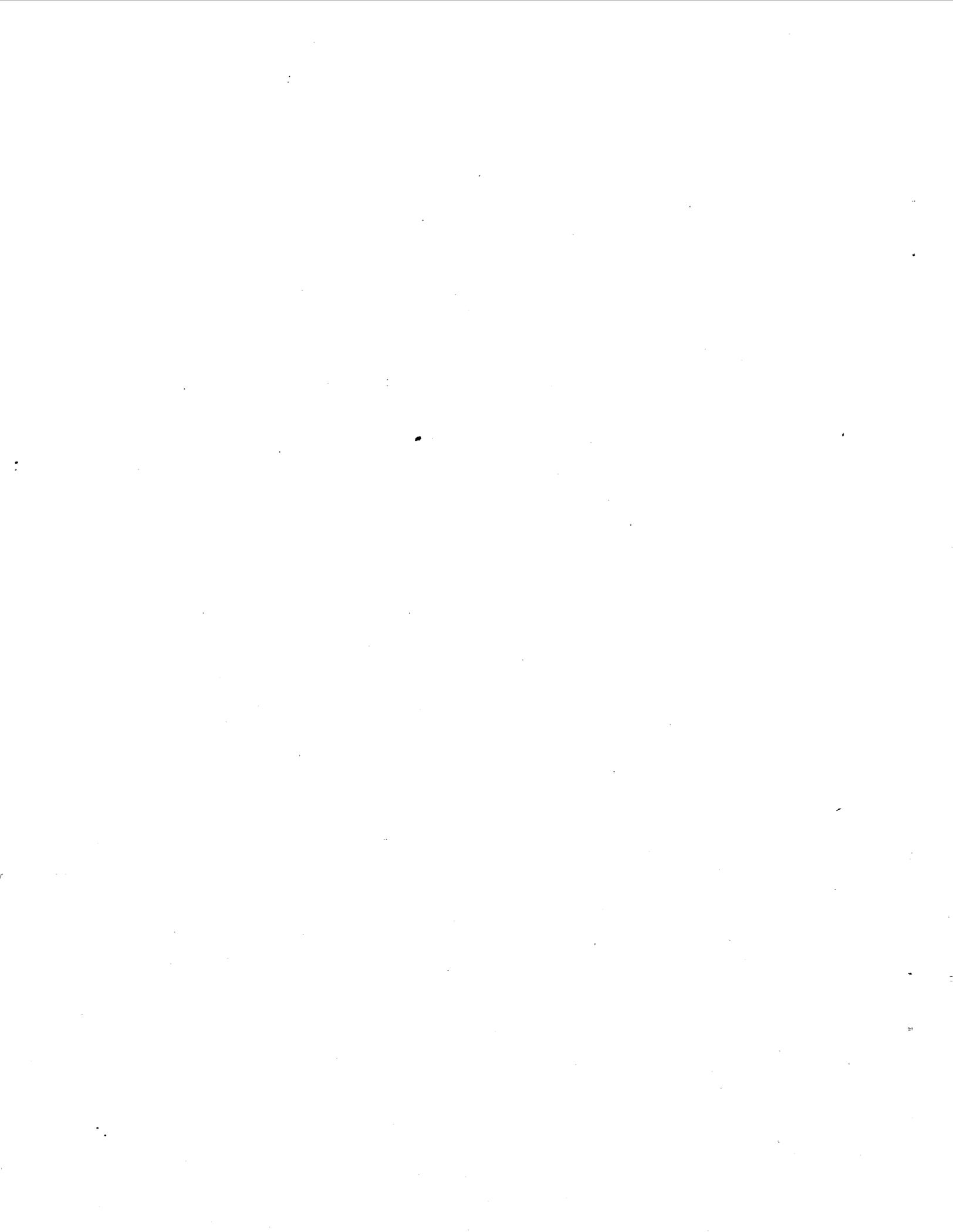
Code 13 applies to active duty records of current National Guard enlisted members who performed service in the U.S. Army after 6/30/72.

ADDRESS LIST OF CUSTODIANS (BY CODE NUMBERS SHOWN ABOVE)—Where to write / send this form for each category of records

1	USAF Military Personnel Center Military Personnel Records Division Randolph AFB, TX 78148	5	Marine Corps Reserve Forces Administration Center 1500 E. Bannister Road Kansas City, MO 64131	8	USA MILPERCEN Attn: DAPC-PSR-R 200 Stevall Street Alexandria, VA 22332	12	Army National Guard Personnel Center Columbia Pike Office Building 5600 Columbia Pike Boulevard Falls Church, VA 22041
2	Air Reserve Personnel Center 7300 East 1st Avenue Denver, CO 80280	6	Military Archives Division National Archives & Records Service General Services Administration Washington, DC 20408	9	Commander U.S. Army Enlisted Records and Evaluation Center Ft. Benjamin Harrison, IN 46249	13	The Adjutant General (of the appropriate State, DC, or Puerto Rico)
3	Commandant U.S. Coast Guard Washington, DC 20590						
4	Commandant of the Marine Corps Headquarters, U.S. Marine Corps Washington, DC 20380	7	Commander U.S. Army Reserve Components Personnel & Administration Center 9700 Page Boulevard St. Louis, MO 63132	10	Chief of Naval Personnel Department of the Navy Washington, DC 20370	14	National Personnel Records Center (Military Personnel Records) 9700 Page Boulevard St. Louis, MO 63132
				11	Naval Reserve Personnel Center New Orleans, LA 70146		

GPO : 1983 O - 428-071

STANDARD FORM 180 BACK (Rev. 5-78)



APPENDIX A

UCFE/UCX FEDERAL LAW 5 U.S.C. CHAPTER 85

SUBCHAPTER I - Employees Generally

8501. DEFINITIONS

For the purpose of this subchapter -

(1) "Federal service" means service performed after 1952 in the employ of the United States or an instrumentality of the United States which is wholly or partially owned by the United States, but does not include service (except service to which subchapter II of this chapter applies) performed

(A) by an elective official in the executive or legislative branch;

(B) as a member of the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;

(C) by members of the Foreign Service for whom payments are provided under Section 609(b)(1) of the Foreign Service Act of 1980;

(D) outside the United States, the Commonwealth of Puerto Rico, and the Virgin Islands by an individual who is not a citizen of the United States;

(E) by an individual excluded by regulations of the Office of Personnel Management from the operation of subchapter III of chapter 83 of this title because he is paid on a contract or fee basis;

(F) by an individual receiving nominal pay and allowances of \$12 or less a year;

(G) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(H) by a student-employee as defined by section 5351 of this title;

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(I) by an individual serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(J) by an individual employed under a Federal relief program to relieve him from unemployment;

(K) as a member of a State, county or community committee under the Agriculture Stabilization and Conservation Service or of any other board, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

(L) by an officer or a member of the crew on or in connection with an American vessel -

and (i) owned by or bareboat chartered to the United States;

(ii) whose business is conducted by a general agent of the Secretary of Commerce;

if contributions on account of the service are required to be made to an unemployment fund under a State unemployment compensation law under section 3305(g) of title 26;

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service;

(3) "Federal employee" means an individual who has performed Federal service;

(4) "compensation" means cash benefits payable to an individual with respect to dependents;

(5) "benefit year" means the benefit year as defined by the applicable State unemployment compensation law, and if not so defined the term means the period prescribed in the agreement under this subchapter with a State or, in the absence of such an agreement, the period prescribed by the Secretary of Labor;

(6) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

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(7) "United States", when used in a geographical sense, means the States; and

(8) "Base Period" Means the base period as defined by the applicable State unemployment compensation law for the benefit year.

8502. COMPENSATION UNDER STATE AGREEMENT

(a) The Secretary of Labor, on behalf of the United States, may enter into an agreement with a State, or with an agency administering the unemployment compensation law of a State, which the State agency shall -

(1) pay, as agent of the United States, compensation under this subchapter to Federal employees; and

(2) otherwise cooperate with the Secretary and with other State agencies in paying compensation under this subchapter.

(b) The agreement shall provide that compensation will be paid the State to a Federal employee in the same amount, on the same terms, and subject to the same conditions as compensation which would be payable to him under the unemployment compensation law of the State if his Federal service and Federal wages assigned under section 8504 of this title to the State had been included as employment and wages under that State law.

(c) (Repealed.)

(d) A determination by a State agency with respect to entitlement to compensation under an agreement is subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(e) Each agreement shall provide the terms and conditions on which it may be amended or terminated.

8503. COMPENSATION ABSENT STATE AGREEMENT

(a) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to a State which does not have an agreement with the Secretary of Labor, the Secretary, under regulations prescribed by him shall, on the filing by the Federal employee of a claim for compensation under this subsection, pay compensation to him

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in the same amount, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the State if his Federal service and Federal wages had been included as employment and wages under that State law. However, if the Federal employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that State law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages.

(b) A Federal employee whose claim for compensation under subsection (a) of this section is denied, is entitled to a fair hearing under regulations prescribed by the Secretary. A final determination by the Secretary with respect to entitlement to compensation under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42.

8504. ASSIGNMENT OF FEDERAL SERVICES AND WAGES

Under regulations prescribed by the Secretary of Labor, the Federal service and Federal wages of a Federal employee shall be assigned to the State in which he had his last official station in Federal service before the filing of his claim for compensation for the benefit year. However -

(1) if, at the time of filing his first claim, he resides in another State in which he performed, after the termination of his Federal service, service covered under the unemployment compensation law of the other State, his Federal service and Federal wages shall be assigned to the other State; and

(2) if his last official station in Federal service, before filing his first claim, was outside the United States, his Federal service and Federal wages shall be assigned to the State where he resides at the time he files his first claim.

8505. PAYMENTS TO STATES

(a) Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages.

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(b) Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Secretary of Labor, the sum that the Secretary estimates the State is entitled to receive under this subchapter for each calendar month. The sum shall be reduced or increased by the amount which the Secretary finds that his estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical sampling, or other method agreed on by the Secretary and the State agency.

(c) The Secretary from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office shall pay the State in accordance with the certification from the funds for carrying out the purposes of this subchapter.

(e) An agreement may -

(1) require each State officer or employee who certifies payments or disburses funds under the agreement, or who otherwise participates in its performance, to give a surety bond to the United States in the amount the Secretary considers necessary; and

(2) provide for payment of the cost of the bond from funds for carrying out the purposes of this subchapter.

(f) In absence of gross negligence or intent to defraud the United States, a disbursing official is not liable for a payment by him under this subchapter if it was based on a voucher signed by a certifying official designated as provided by subsection (f) of this section.

(h) For the purpose of payments made to a State under subchapter III of chapter 7 of title 42, administration of the State unemployment law.

8506. DISSEMINATION OF INFORMATION

(a) Each agency of the United States and each wholly or partially owned instrumentality of the United States shall make available to State agencies which have agreements under this subchapter, or to the Secretary of Labor, as the case may

be, such information concerning the Federal service and Federal wages of a Federal employee as the Secretary considers practicable and necessary for the determination of the entitlement of the Federal employee to compensation under this subchapter. The information shall include the findings of the employing agency concerning -

- (1) whether or not the Federal employee has performed Federal service;
- (2) the periods of Federal service;
- (3) the amount of Federal wages; and
- (4) the reasons for termination of Federal service.

The employing agency shall make the findings in the form and manner prescribed by regulations of the secretary. The regulations shall include provisions for correction by the employing agency of errors and omissions. This subsection does not apply with respect to Federal service and Federal wages covered by subchapter II of this Chapter.

(b) The agency administering the unemployment compensation law of a State shall furnish the Secretary such information as he considers necessary or appropriate in carrying out this subchapter. The information is deemed the report required by the Secretary for the purpose of section 503(a)(6) of title 42.

8507. FALSE STATEMENT AND MISREPRESENTATION

(a) If a State agency, the Secretary of Labor, or a court of competent jurisdiction finds that an individual -

(1) Knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact; and

(2) as a result of that action has received an amount as compensation under this subchapter to which he was not entitled;

the individual shall repay the amount to the State agency or the Secretary. Instead of requiring repayment under this subsection, the State agency or the Secretary may recover the

APPENDIX A

amount by deductions from compensation payable to the individual under this subchapter during the 2-year period after the date of the finding. A finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under section 8502(d) and 8503(b) of this title.

(b) An amount repaid under subsection (a) of this section shall be -

(1) deposited in the fund from which payment was made, if the repayment was to a State agency; or

(2) returned to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payment was made, if the repayment was to the Secretary.

8508. REGULATIONS

The Secretary of Labor may prescribe rules and regulations necessary to carry out this subchapter and subchapter II of this chapter. The Secretary, insofar as practicable, shall consult with representatives of the State Unemployment Compensation agencies before prescribing rules or regulations which may affect the performance by the State agencies of functions under agreements under this subchapter.

8509. FEDERAL EMPLOYEES COMPENSATION ACCOUNT

(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the "Account") in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of -

(1) funds appropriated to or transferred thereto, and

(2) amounts deposited therein pursuant to subsection (c).

(b) Moneys in the Account shall be available only for the purposes of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

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(1) Each employing agency shall deposit into the Account, amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after December 31, 1980, with respect to which deposit has not previously been made. The amount to be deposited by an employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1981, the Secretary of labor shall estimate -

(1) the amount of expenditures which will be made from the Account during such year, and

(2) the amount of funds which will be available during such year for the making of such expenditures,

and if, on the basis of such estimate, he determines that the amount described in paragraph (2) is in excess of the amount necessary -

(3) to meet the expenditures described in paragraph (1), and

(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be

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sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary shall transfer from the Account to the general fund of the Treasury, an amount equal to such excess.

(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.

(h) For purposes of this section, the term, "Federal Service" includes Federal service as defined in section 8521(a).

APPENDIX A

SUBCHAPTER II - EX-SERVICEMEMBERS

* 8521. DEFINITIONS: APPLICATION

(a) For the purpose of this subchapter:

(1) "Federal service" means active service (not including active duty in a reserve status unless for a continuous period of 90 days or more) in the Armed Forces or the "Commissioned Corps of the National Oceanic and Atmospheric Administration if with respect to that service -

(A) The individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); and

(B) (i) the individual was discharged or released after completing his first full term of active service which the individual initially agreed to serve, or

(ii) the individual was discharged or released before completing such term of active service -

(I) for the convenience of the Government under an early release program,

(II) because of medical disqualification, pregnancy, parenthood or any service-incurred injury or disability,

(III) because of hardship, or

(IV) because of personality disorders or inaptitude but only if the service was continuous for 365 days or more.

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his/her latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim for compensation for the benefit year. The Secretary shall issue, from time to time, after consultation with the Secretary of Defense, schedules

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specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind; and

(3) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(b) The provisions of subchapter I of this chapter, subject to the modifications made by this subchapter, apply to individuals who have had Federal service as defined by subchapter (A) of this section.

8522. ASSIGNMENT OF FEDERAL SERVICE AND WAGES

Notwithstanding section 8504 of this title, Federal service and Federal wages not previously assigned shall be assigned to the State in which the claimant first files a claim for unemployment compensation after his latest discharge or release from Federal service. This assignment is deemed as an assignment under section 8504 of this title for the purpose of this subchapter.

8523. DISSEMINATION OF INFORMATION

(a) When designated by the Secretary of Labor, an agency of the United States shall make available to the appropriate State agency or to the Secretary, as the case may be, such information, including findings in the form and manner prescribed by regulations of the Secretary, as the Secretary considers practicable and necessary for the determination of entitlement of an individual to compensation under this subchapter.

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(b) Subject to correction of errors and omissions as prescribed by regulations of the Secretary, the following are final and conclusive for the purpose of sections 8502(d) and 8503(c) of this title:

(1) Findings by an agency of the United States made in accordance with subsection (a) of this section with respect to:

(A) whether or not an individual has met any condition specified by Section 8521(a)(1) of this title;

(B) the periods of Federal service; and

(C) the pay grade of the individual at the time of his latest discharge or release from Federal service.

(2) The schedules of pay and allowances prescribed by the Secretary under section 8521(a)(2) of this title.

8524. ACCRUED LEAVE (Repealed).

8525. EFFECT ON OTHER STATUTES

(a) (Repealed).

(b) An individual is not entitled to compensation under this subchapter for any period with respect to which he receives:

(1) a subsistence allowance under chapter 31 of title 38 or under part VIII of Veterans Regulation Numbered 1(a); or

(2) an educational assistance allowance under chapter 35 of title 38.

APPENDIX B

PART 614—UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS

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- APPENDIX "B" TO PART 614—STANDARD FOR CLAIM DETERMINATION—SEPARATION INFORMATION
- APPENDIX "C" TO PART 614—STANDARD FOR FRAUD AND OVERPAYMENT DETECTION

AUTHORITY: 5 U.S.C. 8508; Secretary's Order No. 4-75 (40 FR 18515).

SOURCE: 47 FR 54697, Dec. 3, 1982, unless otherwise noted.

Subpart A—General Provisions

§ 614.1 Purpose and application.

(a) *Purpose.* Subchapter II of chapter 85, title 5 of the United States Code (5 U.S.C. 8521-8525) provides for a permanent program of unemployment compensation for unemployed individuals separated from the Armed Forces. The unemployment compensation provided for in subchapter II is hereinafter referred to as Unemployment Compensation for Ex-servicemembers, or UCX. The regulations in this part are issued to implement the UCX Program.

(b) *First rule of construction.* The Act and the implementing regulations in this part shall be construed liberally so as to carry out the purposes of the Act.

(c) *Second rule of construction.* The Act and the implementing regulations in this part shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act throughout the United States.

(d) *Effectuating purpose and rules of construction.* (1) In order to effectuate the provisions of this section, each State agency shall forward to the United States Department of Labor (hereafter Department), not later than 10 days after issuance, a copy of each judicial or administrative decision ruling on an individual's entitlement to payment of UCX or to credit for a waiting period. On request of the Department, a State agency shall forward to the Department a copy of any determination or redetermination ruling on an individual's entitlement to UCX or waiting period credit.

(2)(i) If the Department believes that a determination, redetermination, or decision is inconsistent with the Department's interpretation of the Act or

this part, the Department may at any time notify the State agency of the Department's view. Thereafter, the State agency shall issue a redetermination or appeal if possible, and shall not follow such determination, redetermination, or decision as a precedent; and, in any subsequent proceedings which involve such determination, redetermination, or decision, or wherein such determination, redetermination, or decision is cited as precedent or otherwise relied upon, the State agency shall inform the claims deputy or hearing officer or court of the Department's view and shall make all reasonable efforts, including appeal or other proceedings in an appropriate forum, to obtain modification, limitation, or overruling of the determination, redetermination, or decision.

(ii) If the Department believes that a State agency has failed to use, or use in a timely manner, the crossmatch mechanism at the claims control center designated by the Department, the Department may at any time notify the State of the Department's view. Thereafter, the State agency shall take action to ensure that operable procedures for the effective utilization of the claims control center are in place and adhered to. In any case of any determination, redetermination, or decision that is not legally warranted under the Act or this part had the State used, or used in a timely manner, the crossmatch mechanism at the claims control center designated by the Department, State agency shall take the steps outlined in paragraph (d)(2)(i) of this section.

(3) If the Department believes that a determination, redetermination, or decision is patently and flagrantly violative of the Act or this part, the Department may at any time notify the State agency of the Department's view. If the determination, redetermination, or decision in question denies UCX to a claimant, the steps outlined in paragraph (2) above shall be followed by the State agency. If the determination, redetermination, or decision in question awards UCX to a claimant, the benefits are "due" within the meaning of section 303(a)(1) of the Social Security Act, 42 U.S.C. 503(a)(1), and therefore must be paid promptly to the claimant.

However, the State agency shall take the steps outlined in paragraph (d)(2) of this section, and payments to the claimant may be temporarily delayed if redetermination or appeal action is taken not more than one business day following the day on which the first payment otherwise would be issued to the claimant; and the redetermination action is taken or appeal is filed to obtain a reversal of the award of UCX and a ruling consistent with the Department's view; and the redetermination action or appeal seeks an expedited redetermination or appeal within not more than two weeks after the redetermination action is taken or the appeal is filed. If redetermination action is not taken or appeal is not filed within the above time limit, or a redetermination or decision is not obtained within the two-week limit, or any redetermination or decision or order is issued which affirms the determination, redetermination, or decision awarding UCX or allows it to stand in whole or in part, the benefits awarded must be paid promptly to the claimant.

(4)(i) If any determination, redetermination, or decision, referred to in paragraph (d)(2) or paragraph (d)(3) of this section, is treated as a precedent for any future UCX claim or claim under the UCFE Program (part 609 of this chapter), the Secretary will decide whether the Agreement with the State entered into under the Act shall be terminated.

(ii) In the case of any determination, redetermination, or decision that is not legally warranted under the Act or this part, including any determination, redetermination, or decision referred to in paragraph (d)(2) or in paragraph (d)(3) of this section, the Secretary will decide whether the State shall be required to restore the funds of the United States for any sums paid under such a determination, redetermination, or decision, and whether, in absence of such restoration, the Agreement with the State shall be terminated and whether other action shall be taken to recover such sums for the United States.

(5) A State agency may request reconsideration of a notice issued pursuant to paragraph (d)(2) or paragraph (d)(3) of this section, and shall be given

an opportunity to present views and arguments if desired.

(6) Concurrence of the Department in a determination, redetermination, or decision shall not be presumed from the absence of a notice issued pursuant to this section.

(Approved by the Office of Management and Budget under control number 1205-0163)

[47 FR 54697, Dec. 3, 1982, as amended at 53 FR 40553, Oct. 17, 1988; 53 FR 43799, Oct. 26, 1988; 57 FR 59799, Dec. 15, 1992]

§ 614.2 Definitions of terms.

For purposes of the Act and this part:

(a) *Act* means subchapter II of chapter 85 of title 5 of the United States Code, 5 U.S.C. 8521-8525.

(b) *Agreement* means the Agreement entered into pursuant to 5 U.S.C. 8502 between a State and the Secretary under which the State agency of the State agrees to make payments of unemployment compensation in accordance with the Act and the regulations and procedures thereunder prescribed by the Department.

(c) *Base period* means the base period as defined by the applicable State law for the benefit year.

(d) *Benefit year* means the benefit year as defined by the applicable State law, and if not so defined the term means the period prescribed in the Agreement with the State or, in the absence of an Agreement, the period prescribed by the Department.

(e) *Ex-servicemember* means an individual who has performed Federal military service.

(f) *Federal military agency* means any of the Armed Forces of the United States, including the Army, Air Force, Navy, Marine Corps, and Coast Guard, and the National Oceanic and Atmospheric Administration (Department of Commerce).

(g) *Federal military service* means active service (not including active duty in a reserve status unless for a continuous period of 90 days or more) in the Armed Forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration if with respect to that service—

(1) The individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); and

(2)(i) The individual was discharged or released after completing his/her first full term of active service which the individual initially agreed to serve, or

(ii) The individual was discharged or released before completing such term of active service—

(A) For the convenience of the Government under an early release program,

(B) Because of medical disqualification, pregnancy, parenthood, or any service-incurred injury or disability,

(C) Because of hardship, or

(D) Because of personality disorders or inaptitude but only if the service was continuous for 365 days or more.

(h) *Federal military wages* means all pay and allowances in cash and in kind for Federal military service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his or her latest discharge or release from Federal/military service, as determined in accordance with the Schedule of Remuneration applicable at the time the individual files his or her first claim for compensation for a benefit year.

(i) *First claim* means an initial claim for unemployment compensation under the UCX Program, the UCFE Program (part 609 of this chapter), or a State law, or some combination thereof, first filed by an individual after the individual's latest discharge or release from Federal military service, whereby a benefit year is established under an applicable State law.

(j) *Military document* means an official document or documents issued to an individual by a Federal military agency relating to the individual's Federal military service and discharge or release from such service.

(k) *Period of active service* means a period of continuous active duty (including active duty for training purposes) in a Federal military agency or agencies, beginning with the date of entry upon active duty and ending on the effective date of the first discharge or release thereafter which is not qualified or conditional.

(l) *Schedule of Remuneration* means the schedule issued by the Department from time to time under 5 U.S.C. 8521(a)(2) and this part, which specifies

for purposes of the UCX Program, the pay and allowances for each pay grade of servicemember.

(m) *Secretary* means the Secretary of Labor of the United States.

(n) *State* means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(o) *State agency* means the agency of the State which administers the applicable State unemployment compensation law and is administering the UCX Program in the State pursuant to an Agreement with the Secretary.

(p)(1) *State law* means the unemployment compensation law of a State approved by the Secretary under section 3304 of the Internal Revenue Code of 1986, 26 U.S.C. 3304, if the State is certified under section 3304(c) of the Internal Revenue Code of 1986, 26 U.S.C. 3304(c).

(2) *Applicable State law* means the State law made applicable to a UCX claimant by §614.8.

(q)(1) *Unemployment compensation* means cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular, additional, emergency, and extended compensation.

(2) *Regular compensation* means unemployment compensation payable to an individual under any State law, but not including additional compensation or extended compensation.

(3) *Additional compensation* means unemployment compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors.

(4) *Emergency compensation* means supplementary unemployment compensation payable under a temporary Federal law after exhaustion of regular and extended compensation.

(5) *Extended compensation* means unemployment compensation payable to an individual for weeks of unemployment in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, 26 U.S.C. 3304 note, and part 615 of this chapter, with respect to the payment of extended compensation.

(r) *Unemployment Compensation for Ex-Servicemember* means the unemployment compensation payable under the Act to claimants eligible for the payments, and is referred to as UCX.

(s) *Week* means, for purposes of eligibility for and payment of UCX, a week as defined in the applicable State law.

(t) *Week of unemployment* means a week of total, part-total, or partial unemployment as defined in the applicable State law, which shall be applied in the same manner and to the same extent to all employment and earnings, and in the same manner and to the same extent for the purposes of the UCX Program, as if the individual filing for UCX were filing a claim for State unemployment compensation.

[47 FR 54697, Dec. 3, 1982, as amended at 53 FR 40554, Oct. 17, 1988; 53 FR 43799, Oct. 26, 1988; 57 FR 59799, Dec. 15, 1992]

Subpart B—Administration of UCX Program

§614.3 Eligibility requirements for UCX

An individual shall be eligible to receive a payment of UCX or waiting period credit with respect to a week of unemployment if:

(a) The individual has Federal military service and Federal military wages in the base period under the applicable State law;

(b) The individual meets the qualifying employment and wage requirements of the applicable State law, either on the basis of Federal military service and Federal military wages alone or in combination with service and wages covered under a State law or under the UCFE Program (part 609 of this chapter);

(c) The individual has filed an initial claim for UCX and, as appropriate, has filed a timely claim for waiting period credit or payment of UCX with respect to that week of unemployment; and

(d) The individual is totally, part-totally, or partially unemployed, and is able to work, available for work, and seeking work within the meaning of or as required by the applicable State law, and is not subject to disqualification under this part or the applicable State law, with respect to that week of unemployment.

[47 FR 54697, Dec. 3, 1982, as amended at 53 FR 40554, Oct. 17, 1988; 57 FR 59799, Dec. 15, 1992]

§614.4 Weekly and maximum benefit amounts.

(a) *Total unemployment.* The weekly amount of UCX payable to an eligible individual for a week of total unemployment shall be the amount that would be payable to the individual as unemployment compensation for a week of total unemployment as determined under the applicable State law.

(b) *Partial and part-total unemployment.* The weekly amount of UCX payable for a week of partial or part-total unemployment shall be the amount that would be payable to the individual as unemployment compensation for a week of partial or part-total unemployment as determined under the applicable State law.

(c) *Maximum amount.* The maximum amount of UCX which shall be payable to an eligible individual during and subsequent to the individual's benefit year shall be the maximum amount of all unemployment compensation that would be payable to the individual as determined under the applicable State law.

(d) *Computation rules.* The weekly and maximum amounts of UCX payable to an individual under the UCX Program shall be determined under the applicable State law to be in the same amount, on the same terms, and subject to the same conditions as the State unemployment compensation which would be payable to the individual under the applicable State law if the individual's Federal military service and Federal military wages assigned or transferred under this part to the State had been included as employment and wages covered by that State law, subject to the use of the applicable Schedule of Remuneration.

[47 FR 54697, Dec. 3, 1982, as amended at 53 FR 40554, Oct. 17, 1988; 57 FR 59800, Dec. 15, 1992]

§614.5 Claims for UCX.

(a) *First claims.* A first claim for UCX shall be filed by an individual in any State agency of any State according to the applicable State law, and on a form prescribed by the Department which

shall be furnished to the individual by the State agency where the claim is filed.

(b) *Weekly claims.* Claims for waiting week credit and payments of UCX for weeks of unemployment shall be filed in any State agency (or Canada) at the times and in the manner as claims for State unemployment compensation are filed under the applicable State law, and on forms prescribed by the Department which shall be furnished to the individual by the State agency where the claim is filed.

(c) *Secretary's standard.* The procedures for reporting and filing claims for UCX and waiting period credit shall be consistent with this part 614 and the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" in the *Employment Security Manual*, part V, sections 5000-5004 (appendix A of this part).

[47 FR 54697, Dec. 3, 1982, as amended at 53 FR 40554, Oct. 17, 1988]

§614.6 Determinations of entitlement; notices to individual and Federal military agency.

(a) *Determinations of first claim.* Except for findings of a Federal military agency and the applicable Schedule of Remuneration which are final and conclusive under §614.23, the State agency whose State law applies to an individual under §614.8 shall, promptly upon the filing of a first claim for UCX, determine whether the individual is otherwise eligible, and, if the individual is found to be eligible, the individual's benefit year and the weekly and maximum amounts of UCX payable to the individual.

(b) *Determinations of weekly claims.* The State agency promptly shall, upon the filing of a claim for a payment of UCX or waiting period credit with respect to a week, determine whether the individual is entitled to a payment of UCX or waiting period credit respect to such week, and, if entitled, the amount of UCX or waiting period credit to which the individual is entitled.

(c) *Redetermination.* The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to State unem-

ployment compensation under the applicable State law shall apply to determinations pertaining to UCX.

(d) *Notices to individual and Federal military agency.* (1) The State agency promptly shall give notice in writing to the individual of any determination or redetermination of a first claim, and, except as may be authorized under paragraph (g) of this section, of any determination or redetermination of any weekly claim which denies UCX or waiting period credit or reduces the weekly amount or maximum amount initially determined to be payable. Each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determinations and redeterminations with respect to claims for State unemployment compensation. Such notice shall include the findings of any Federal military agency utilized in making the determination or redetermination, and shall inform the individual of the finality of Federal findings and the individual's right to request correction of such findings as is provided in §614.22.

(2) A notice of claim filing and subsequent notices of monetary and nonmonetary determinations on a UCX claim shall be sent to each Federal military agency for which the individual performed Federal military service during the appropriate base period, together with notice of appeal rights of the Federal military agency to the same extent that chargeable employers are given such notices under State law and practice unless an alternate mechanism is established by the Department of Labor in lieu of such notices.

(e) *Obtaining information for claim determinations.* (1) Information required for the determination of claims for UCX shall be obtained by the State agency from claimants, employers, and others, in the same manner as information is obtained for claim purposes under the applicable State law, but Federal military findings shall be obtained from military documents, the applicable Schedule of Remuneration, and from Federal military agencies as prescribed in §§ 614.21 through 614.24.

(f) *Promptness.* Full payment of UCX when due shall be consistent with this part and shall be made with the greatest promptness that is administratively feasible, but the provisions of part 640 of this chapter (relating to promptness of benefit payments) shall not be applicable to the UCX Program.

(g) *Secretary's standard.* The procedures for making determinations and redeterminations, and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals applying for UCX and to appropriate Federal military agencies shall be consistent with this part 614 and the Secretary's "Standard for Claim Determinations-Separation Information" in the *Employment Security Manual*, part V, sections 6010-6015 (Appendix B of this part).

[47 FR 54697, Dec. 3, 1982, as amended at 53 FR 40554, Oct. 17, 1988]

§614.7 Appeal and review.

(a) *Applicable State Law.* The provisions of the applicable State law concerning the right of appeal and fair hearing from a determination or redetermination of entitlement to State unemployment compensation (exclusive of findings which are final and conclusive under §614.25) shall apply to determinations and redeterminations of eligibility for or entitlement to UCX and waiting period credit. Any such determination or redetermination shall be subject to appeal and review only in the manner and to the extent provided in the applicable State law with respect to determinations and redeterminations of entitlement to State unemployment compensation.

(Section 614.24 governs appeals of findings of the Veterans Administration)

(b) *Rights of appeal and fair hearing.* The provisions on right of appeal and opportunity for a fair hearing with respect to claims for UCX shall be consistent with this part and with sections 303(a)(1) and 303(a)(3) of the Social Security Act, 42 U.S.C. 503(a)(1) and 503(a)(3).

(c) *Promptness on appeals.* (1) Decisions on appeals under the UCX Program shall accord with the Secretary's "Standard for Appeals Promptness—

Unemployment Compensation" in part 650 of this chapter, and with §614.1(d).

(2) Any provision of an applicable State law for advancement or priority of unemployment compensation cases on judicial calendars, or otherwise intended to provide for the prompt payment of unemployment compensation when due, shall apply to proceedings involving claims for UCX.

(d) *Appeal and review by Federal military agency.* If a Federal military agency believes that a State agency's determination or redetermination of an individual's eligibility for or entitlement to UCX is incorrect, the Federal military agency may seek appeal and review of such determination or redetermination in the same manner as an interested employer may seek appeal and review under the applicable State law.

§614.8 The applicable State for an individual.

(a) *The applicable State.* The applicable State for an individual shall be the State to which the individual's Federal military service and Federal military wages are assigned or transferred under this section. The applicable State law for the individual shall be the State law of such State.

(b) *Assignment of service and wages.* (1) When an individual files a first claim, all of the individual's Federal military service and Federal military wages shall be deemed to be assigned to the State in which such claim is filed, which shall be the "Paying State" in the case of a combined-wage claim. (§616.6(e) of this chapter.)

(2) Federal military service and Federal military wages assigned to a State in error shall be reassigned for use by the proper State agency. An appropriate record of the reassignment shall be made by the State agency which makes the reassignment.

(c) *Assignment deemed complete.* All of an individual's Federal military service and Federal military wages shall be deemed to have been assigned to a State upon the filing of a first claim. Federal military service and Federal military wages shall be assigned to a State only in accordance with paragraph (b) of this section.

(d) *Use of assigned service and wages.* All assigned Federal military service

and Federal military wages shall be used only by the State to which assigned in accordance with paragraph (b) of this section, except that any Federal military service and Federal military wages which are not within the base period of the State to which they were assigned shall be subject to transfer in accordance with part 616 of this chapter for the purposes of any subsequent Combined-Wage Claim filed by the individual.

§614.9 Provisions of State law applicable to UCX claims.

(a) *Particular provisions applicable.* Except where the result would be inconsistent with the provisions of the Act or this part or the procedures thereunder prescribed by the Department, the terms and conditions of the applicable State law which apply to claims for, and the payment of, State unemployment compensation shall apply to claims for, and the payment of, UCX and claims for waiting period credit. The provisions of the applicable State law which shall apply include, but are not limited to:

- (1) Claim filing and reporting;
- (2) Information to individuals, as appropriate;
- (3) Notices to individuals, as appropriate, including notice to each individual of each determination and redetermination of eligibility for or entitlement to UCX;
- (4) Determinations and redeterminations;
- (5) Ability to work, availability for work, and search for work; and
- (6) Disqualifications, except in regard to separation from any Federal military agency.

(b) *IBPP.* The *Interstate Benefit Payment Plan* shall apply, where appropriate, to individuals filing claims for UCX.

(c) *Wage combining.* The State's provisions complying with the *Interstate Arrangement for Combining Employment and Wages* (part 616 of this chapter) shall apply, where appropriate, to individuals filing claims for UCX.

(d) *Procedural requirements.* The provisions of the applicable State law which apply hereunder to claims for and the payment of UCX shall be applied consistently with the requirements of title

III of the Social Security Act and the Federal Unemployment Tax Act which are pertinent in the case of State unemployment compensation, including but not limited to those standards and requirements specifically referred to in the provisions of this part, except as provided in paragraph (f) of §614.6.

§614.10 Restrictions on entitlement.

(a) *Disqualification.* If the week of unemployment for which an individual claims UCX is a week to which a disqualification for State unemployment compensation applies under the applicable State law, the individual shall not be entitled to a payment of UCX for that week. As provided in §614.9(a), no disqualification shall apply in regard to separation from any Federal military agency.

(b) *Effect of "days lost".* The continuity of a period of an individual's Federal military service shall not be deemed to be interrupted by reason of any "days lost" in such period, but "days lost" shall not be counted for purposes of determining:

(1) Whether an individual has performed Federal military service;

(2) Whether an individual meets the wage and employment requirements of a State law; or

(3) The amount of an individual's Federal military wages.

(c) *Allocation of military accrued leave.* A State agency shall allocate the number of days of unused military leave specified in an ex-servicemember's military document, for which a lump-sum payment has been made, in the same manner as similar payments by private employers to their employees are allocated under the applicable State law, except that the applicable Schedule of Remuneration instead of the lump-sum payment shall be used to determine the amount of the claimant's Federal military wages. In a State in which a private employer has an option as to the period to which such payments shall be allocated, such payments shall be allocated to the date of the individual's latest discharge or release from Federal military service. An allocation under this paragraph shall be disregarded in determining whether an individual has had a period

of active service constituting Federal military service.

(d) *Education and training allowances.* An individual is not entitled to UCX under the Act or this part for a period with respect to which the individual receives:

(1) A subsistence allowance for vocational rehabilitation training under chapter 31 of title 38 of the United States Code, 38 U.S.C. 1501 *et seq.*, or under part VIII of Veterans Regulation Numbered 1(a); or

(2) An educational assistance allowance or special training allowance under chapter 35 of title 38 of the United States Code, 38 U.S.C. 1700 *et seq.*

§614.11 Overpayments; penalties for fraud.

(a) *False statements and representations.* Section 8507(a) of the Act provides that if a State agency, the Department, or a court of competent jurisdiction finds that an individual—

(1) Knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact; and

(2) As a result of that action has received an amount as UCX to which the individual was not entitled; the individual shall repay the amount to the State agency or the Department. Instead of requiring repayment, the State agency or the Department may recover the amount by deductions from UCX payable to the individual during the 2-year period after the date of the finding. A finding by a State agency or the Department may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under §614.7.

(b) *Prosecution for fraud.* Section 1919 of title 18, United States Code, provides that whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other individual any payment authorized to be paid under chapter 85 of title 5, United States Code, or under an agreement thereunder, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) *Absence of fraud.* If a State agency or court of competent jurisdiction finds that an individual has received a payment of UCX to which the individual was not entitled under the Act and this part, which was not due to a false statement or representation as provided in paragraph (a) or (b) of this section, the individual shall be liable to repay to the applicable State the total sum of the payment to which the individual was not entitled, and the State agency shall take all reasonable measures authorized under any State law or Federal law to recover for the account of the United States the total sum of the payment to which the individual was not entitled.

(d) *Recovery by offset.* (1) The State agency shall recover, insofar as is possible, the amount of any overpayment which is not repaid by the individual, by deductions from any UCX payable to the individual under the Act and this part, or from any unemployment compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency.

(2) A State agency shall also recover, insofar as is possible, the amount of any overpayment of UCX made to the individual by another State by deductions from any UCX payable by the State agency to the individual under the Act and this part, or from any unemployment compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency.

(3) Recoupment of fraudulent overpayments referred to in paragraph (a) of this section shall be limited to the 2-year period stated in that paragraph. Recoupment of fraudulent overpayments referred to in paragraph (b) of this section, and nonfraudulent overpayments referred to in paragraph (c) of this section shall be subject to any time limitation on recoupment pro-

vided for in the State law that applies to the case.

(e) *Debts due the United States.* UCX payable to an individual shall be applied by the State agency for the recovery by offset of any debt due to the United States from the individual, but shall not be applied or used by the State agency in any manner for the payment of any debt of the individual to any State or any other entity or person except pursuant to a court order for child support or alimony in accordance with the law of the State and section 459 of the Social Security Act, 42 U.S.C. 659.

(f) *Application of State law.* (1) Except as indicated in paragraph (a) of this section, any provision of State law that may be applied for the recovery of overpayments or prosecution for fraud, and any provision of State law authorizing waiver of recovery of overpayments of unemployment compensation, shall be applicable to UCX.

(2) In the case of any finding of false statement of representation under the Act and paragraph (a) of this section, or prosecution for fraud under 18 U.S.C. 1919 or pursuant to paragraph (f)(1) of this section, the individual shall be disqualified or penalized in accordance with the provision of the applicable State law relating to fraud in connection with a claim for State unemployment compensation.

(g) *Final decision.* Recovery of any overpayment of UCX shall not be enforced by the State agency until the determination or redetermination establishing the overpayment has become final, or if appeal is taken from the determination or redetermination, until the decision after opportunity for a fair hearing has become final.

(h) *Procedural requirements.* (1) The provisions of paragraphs (c), (d), and (g) of §614.6 shall apply to determinations and redeterminations made pursuant to this section.

(2) The provisions of §614.7 shall apply to determinations and redeterminations made pursuant to this section.

(i) *Fraud detection and prevention.* Provisions in the procedures of each State with respect to detection and prevention of fraudulent overpayments of UCX shall be, as a minimum, com-

mensurate with the procedures adopted by the State with respect to State unemployment compensation and consistent with this part 614 and the Secretary's "Standard for Fraud and Overpayment Detection" in the *Employment Security Manual*, part V, sections 7510-7515 (Appendix C of this part), and provide for timely use of any crossmatch mechanism established by the Department.

(j) *Recovered overpayments.* An amount repaid or recouped under this section shall be—

(1) Deposited in the fund from which payment was made, if the repayment was to a State agency; or

(2) Returned to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payment was made, if the repayment was to the Department.

[47 FR 54697, Dec. 3, 1982, as amended at 53 FR 40555, Oct. 17, 1988]

§ 614.12 Schedules of remuneration.

(a) *Authority.* Section 8521(a)(2) of chapter 85, title 5 of the United States Code, 5 U.S.C. 8521(a)(2), requires the Secretary of Labor to issue from time to time, after consultation with the Secretary of Defense, a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the Armed Forces.

(b) *Elements of schedule.* A schedule reflects representative amounts for appropriate elements of the pay and allowances, whether in cash or kind, for each pay grade of members of the Armed Forces, with a statement of the effective date of the schedule. Benefit amounts for the UCX Program are computed on the basis of the Federal military wages for the pay grade of the individual at the time of the individual's latest discharge or release from Federal military service, as specified in the schedule applicable at the time the individual files his or her first claim for compensation for the benefit year.

(c) *Effective date.* Any new Schedule of Remuneration shall take effect beginning with the first week of the calendar quarter following the calendar quarter in which such schedule is issued, and shall remain applicable until a subsequent schedule becomes effective.

Prior schedules shall continue to remain applicable for the periods they were in effect.

(d) *Publication.* Any new Schedule of Remuneration shall be issued by the Secretary of Labor to the State agencies and the Federal military agencies. Promptly after the issuance of a new Schedule of Remuneration it shall be published as a notice in the FEDERAL REGISTER.

§ 614.13 Inviolate rights to UCX.

Except as specifically provided in this part, the rights of individuals to UCX shall be protected in the same manner and to the same extent as the rights of persons to State unemployment compensation are protected under the applicable State law. Such measures shall include protection of applicants for UCX from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment of their rights to UCX, except as provided in § 614.11. In the same manner and to the same extent, individuals shall be protected from discrimination and obstruction in regard to seeking, applying for, and receiving any right to UCX.

§ 614.14 Recordkeeping; disclosure of information.

(a) *Recordkeeping.* Each State agency will make and maintain records pertaining to the administration of the UCX Program as the Department requires, and will make all such records available for inspection, examination, and audit by such Federal officials or employees as the Department may designate or as may be required by law.

(b) *Disclosure of information.* Information in records maintained by a State agency in administering the UCX Program shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to State unemployment compensation and the entitlement of individuals thereto may be disclosed under the applicable State law. This provision on the confidentiality of information maintained in the administration of the UCX Program shall not apply, however, to the Department or for the purposes of §§ 614.11 or 614.14, or in the

case of information, reports and studies required pursuant to §§ 614.18 or 614.26, or where the result would be inconsistent with the Freedom of Information Act, 5 U.S.C. 552, the Privacy Act of 1974, 5 U.S.C. 552a, or regulations of the Department promulgated thereunder.

§ 614.15 Payments to States.

(a) *State entitlement.* Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal military wages, an amount bearing the same ratio to the total amount of compensation paid to such individual as the amount of the individual's Federal military wages in the individual's base period bears to the total amount of the individual's base period wages.

(b) *Payment.* Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Department, the sum that the Department estimates the State is entitled to receive under the Act and this part for each calendar month. The sum shall be reduced or increased by the amount which the Department finds that its estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical, sampling, or other method agreed on by the Department and the State agency.

(c) *Certification by the Department.* The Department, from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office, shall pay the State in accordance with the certification from the funds for carrying out the purposes of the Act and this part.

(d) *Use of money.* Money paid a State under the Act and this part may be used solely for the purposes for which it is paid. Money so paid which is not used solely for these purposes shall be returned, at the time specified by the Agreement, to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payments to

States under the Act and this part may be made.

§ 614.16 Public access to Agreements.

The State agency of a State will make available to any individual or organization a true copy of the Agreement with the State for inspection and copying. Copies of an Agreement may be furnished on request to any individual or organization upon payment of the same charges, if any, as apply to the furnishing of copies of other records of the State agency.

§ 614.17 Administration in absence of an Agreement.

(a) *Administering program.* The Department shall administer the UCX Program through personnel of the Department or through other arrangements under procedures prescribed by the Department, in the case of any State which does not have an Agreement with the Secretary as provided for in 5 U.S.C. 8502. The procedures prescribed by the Department under this section shall be consistent with the Act and this part.

(b) *Applicable State law.* On the filing by an individual of a claim for UCX in accordance with arrangements under this section, UCX shall be paid to the individual, if eligible, in the same amount, on the same terms, and subject to the same conditions as would be paid to the individual under the applicable State law if the individual's Federal military service and Federal military wages had been included as employment and wages under the State law. Any such claims shall include the individual's Federal military service and Federal military wages, combined with any service and wages covered by State law. However, if the individual, without regard to his or her Federal military service and Federal military wages, has employment or wages sufficient to qualify for compensation during the benefit year under that State law, then payments of UCX under this section may be made only on the basis of the individual's Federal military service and Federal military wages.

(c) *Fair hearing.* An individual whose claim for UCX is denied under this section is entitled to a fair hearing under rules of procedures prescribed by the

Department. A final determination by the Department with respect to entitlement to UCX under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act, 42 U.S.C. 405(g).

§ 614.18 Information, reports, and studies.

State agencies shall furnish to the Department such information and reports and conduct such studies as the Department determines are necessary or appropriate for carrying out the purposes of the UCX Program.

Subpart C—Responsibilities of Federal Military Agencies and State Agencies

§ 614.20 Information to ex-servicemembers.

At the time of discharge or release from Federal military service, each Federal military agency shall furnish to each ex-servicemember information explaining rights and responsibilities under the UCX Program and 18 U.S.C. 1919, and military documents necessary for filing claims for UCX.

§ 614.21 Findings of Federal military agency.

(a) *Findings in military documents.* Information contained in a military document furnished to an ex-servicemember shall constitute findings to which § 614.23 applies as to:

(1) Whether the individual has performed active service in the Armed Forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;

(2) The beginning and ending dates of the period of active service and "days lost" during such period;

(3) The type of discharge or release terminating the period of active service;

(4) The individuals' pay grade at the time of discharge or release from active service; and

(5) The narrative reason or other reason for separation from active service.

(b) *Discharges not under honorable conditions.* A military document which shows that an individual's discharge or release was under other than honorable

conditions shall also be a finding to which § 614.23 applies.

[53 FR 40555, Oct. 17, 1988]

§ 614.22 Correcting Federal findings.

(a) *Request for correction.* (1) If an individual believes that a finding specified in § 614.21 is incorrect or that information as to any finding has been omitted from a military document, the individual may request the issuing Federal military agency to correct the military document. A request for correction may be made through the State agency, which shall forward such request and any supporting information submitted by the individual to the Federal military agency.

(2) The Federal military agency shall promptly forward to the individual or State agency making the request the corrected military document. Information contained in a corrected military document issued pursuant to such a request shall constitute the findings of the Federal military agency under § 614.21.

(3) If a determination or redetermination based on a finding as to which correction is sought has been issued by a State agency before a request for correction under this paragraph is made, the individual who requested such correction shall file a request for redetermination or appeal from such determination or redetermination with the State agency, and shall inform the State agency of the request for correction.

(4) An individual who files a request for correction of findings under this paragraph shall promptly notify the State agency of the action of the Federal military agency on such request.

(b) *State agency procedure when request made.* (1) If a determination of entitlement has not been made when an individual notifies a State agency of a request for correction under paragraph (a) of this section, the State agency may postpone such determination until the individual has notified the State agency of the action of the Federal military agency on the request.

(2) If a determination of entitlement has been made when an individual notifies a State agency that a request for correction of Federal findings has been made, or if an individual notifies a

State agency prior to a determination of entitlement that a request has been made but such determination is not postponed by the State agency, the individual may file a request for redetermination or appeal in accordance with the applicable State law.

(3) Except as provided in paragraph (c) of this section, no redetermination shall be made or hearing scheduled on an appeal until the individual has notified the State agency of the action of the Federal military agency on a request for correction under paragraph (a) of this section.

(c) *State agency procedure when request answered.* On receipt of notice of the action of a Federal military agency on a request for correction of its findings, a State agency shall:

(1) Make a timely determination or redetermination of the individual's entitlement, or

(2) Promptly schedule a hearing on the individual's appeal.

If such notice is not received by a State agency within one year of the date on which an individual first filed a claim, or such notice is not given promptly by an individual, a State agency without further postponement may make such determination or redetermination or schedule such hearing.

(d) *Findings corrected without request.* Information as to any finding specified in §614.21 contained in a corrected military document issued by a Federal military agency on its own motion shall constitute the findings of such agency under §614.21, if notice thereof is received by a State agency before the period for redetermination or appeal has expired under the State law. On timely receipt of such notice a State agency shall take appropriate action under the applicable State law to give effect to the corrected findings.

§614.23 Finality of findings.

The findings of a Federal military agency referred to in §§614.21 and 614.22, and the Schedules of Remuneration issued by the Department pursuant to the Act and §614.12, shall be final and conclusive for all purposes of the UCX Program, including appeal and review pursuant to §614.7 or §614.17.

[53 FR 40555, Oct. 17, 1988]

§614.24 Furnishing other information.

(a) *Additional information.* In addition to the information required by §§614.21 and 614.22, a Federal military agency shall furnish to a State agency or the Department, within the time requested, any information which it is not otherwise prohibited from releasing by law, which the Department determines is necessary for the administration of the UCX Program.

(b) *Reports.* Federal military agencies shall furnish to the Department or State agencies such reports containing such information as the Department determines are necessary or appropriate for carrying out the purposes of the UCX Program.

[47 FR 54697, Dec. 3, 1982, as amended at 53 FR 40555, Oct. 17, 1988]

§614.25 Liaison with Department

To facilitate the Department's administration of the UCX program, each Federal military agency shall designate one or more of its officials to be the liaison with the Department. Each Federal military agency will inform the Department of its designation(s) and of any change in a designation.

[53 FR 40555, Oct. 17, 1988]

APPENDIX "A" TO PART 614—STANDARD FOR CLAIM FILING, CLAIMANT REPORTING, JOB FINDING, AND EMPLOYMENT SERVICES

EMPLOYMENT SECURITY MANUAL (PART V, SECTIONS 5000-5004)*

5000-5099 CLAIMS FILING

5000 *Standards for Claim Filing, Claimant Reporting, Job Finding, and Employment Services*

A. *Federal law requirements.* Section 3304(a)(1) of the Federal Unemployment Tax Act and section 303(a)(2) of the Social Security Act require that a State law provide for: "Payment of unemployment compensation solely through public employment offices or such other agencies as the Secretary may approve."

Section 3304(a)(4) of the Federal Unemployment Tax Act and section 303(a)(5) of the Social Security Act require that a State law provide for:

"Expenditure of all money withdrawn from an unemployment fund of such State, in the

*Revises subgrouping 5000-5004.

payment of unemployment compensation.
* * *

Section 303(a)(1) of the Social Security Act requires that the State law provide for:

"Such methods of administration * * * as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

B. Secretary's interpretation of Federal law requirements.

1. The Secretary interprets section 3304(a)(1) of the Federal Unemployment Tax Act and section 303(a)(2) of the Social Security Act to require that a State law provide for payment of unemployment compensation solely through public employment offices or claims offices administered by the State employment security agency if such agency provides for such coordination in the operations of its public employment offices and claims offices as will insure: (a) The payment of benefits only to individuals who are unemployed and who are able to work and available for work, and (b) that individuals claiming unemployment compensation (claimants) are afforded such placement and other employment services as are necessary and appropriate to return them to suitable work as soon as possible.

2. The Secretary interprets all the above sections to require that a State law provide for:

a. Such contact by claimants with public employment offices or claims offices or both, (1) as will reasonably insure the payment of unemployment compensation only to individuals who are unemployed and who are able to work and available for work, and (2) that claimants are afforded such placement and other employment services as are necessary and appropriate to facilitate their return to suitable work as soon as possible; and

b. Methods of administration which do not unreasonably limit the opportunity of individuals to establish their right to unemployment compensation due under such State law.

5001 Claim Filing and Claimant Reporting Requirements Designed to Satisfy Secretary's Interpretation

A. Claim filing—total or part-total unemployment.

1. Individuals claiming unemployment compensation for total or part-total unemployment are required to file a claim weekly or biweekly, in person or by mail, at a public employment office or a claims office (these terms include offices at itinerant points) as set forth below.

2. Except as provided in paragraph 3, a claimant is required to file in person:

a. His new claim with respect to a benefit year, or his continued claim for a waiting week or for his first compensable week of unemployment in such year; and

b. Any other claim, when requested to do so by the claims personnel at the office at which he files his claim(s) because questions about his right to benefits are raised by circumstances such as the following:

(1) The conditions or circumstances of his separation from employment;

(2) The claimant's answers to questions on mail claim(s) indicate that he may be unable to work or that there may be undue restrictions on his availability for work or that his search for work may be inadequate or that he may be disqualified;

(3) The claimant's answers to questions on mail claims create uncertainty about his credibility or indicate a lack of understanding of the applicable requirement; or

(4) The claimant's record shows that he has previously filed a fraudulent claim.

In such circumstances, the claimant is required to continue to file claims in person each week (or biweekly) until the State agency determines that filing claims in person is no longer required for the resolution of such questions.

3. A claimant must be permitted to file a claim by mail in any of the following circumstances:

a. He is located in an area requiring the expenditure of an unreasonable amount of time or money in traveling to the nearest facility established by the State agency for filing claims in person;

b. Conditions make it impracticable for the agency to take claims in person;

c. He has returned to full-time work on or before the scheduled date for his filing a claim, unless the agency makes provision for in-person filing at a time and place that does not interfere with his employment;

d. The agency finds that he has good cause for failing to file a claim in person.

4. A claimant who has been receiving benefits for partial unemployment may continue to file claims as if he were a partially unemployed worker for the first four consecutive weeks of total or part-total unemployment immediately following his period of partial unemployment so long as he remains attached to his regular employer.

B. Claim filing—partial unemployment. Each individual claiming unemployment compensation for a week (or other claim period) during which, because of lack of work, he is working less than his normal customary full-time hours for his regular employer and is earning less than the earnings limit provided in the State law, shall not be required to file a claim for such week or other claim period earlier than 2 weeks from the date that wages are paid for such claim period or, if a low earnings report is required by the State law, from the date the employer furnished such report to the individual. State agencies may permit claims for partial unemployment to be filed either in person or by mail, except that in the circumstances set forth in

section A 3, filing by mail must be permitted, and in the circumstances set forth in section A 2 b, filing in person may be required.

5002 Requirement for Job Finding, Placement, and other Employment Services Designed to Satisfy Secretary's Interpretation

A. Claims personnel are required to assure that each claimant is doing what a reasonable individual in his circumstances would do to obtain suitable work.

B. In the discretion of the State agency:

1. The claims personnel are required to give each claimant such necessary and appropriate assistance as they reasonably can in finding suitable work and at their discretion determine when more complete placement and employment services are necessary and appropriate for a claimant; and if they determine more complete services are necessary and appropriate, the claims personnel are to refer him to employment service personnel in the public employment office in which he has been filing claim(s), or, if he has been filing in a claims office, in the public employment office most accessible to him; or

2. All placement and employment services are required to be afforded to each claimant by employment service personnel in the public employment office most accessible to him, in which case the claims personnel in the office in which the claimant files his claim are to refer him to the employment service personnel when placement or other employment services are necessary and appropriate for him.

C. The personnel to whom the State agency assigns the responsibilities outlined in paragraph B above are required to give claimants such job-finding assistance, placement, and other employment services as are necessary and appropriate to facilitate their return to suitable work as soon as possible.

In some circumstances, no such services or only limited services may be required. For example, if a claimant is on a short-term temporary layoff with a fixed return date, the only service necessary and appropriate to be given to him during the period of the layoff is a referral to suitable temporary work if such work is being performed in the labor market area.

Similarly, claimants whose unemployment is caused by a labor dispute presumably will return to work with their employer as soon as the labor dispute is settled. They generally do not need services, nor do individuals in occupations where placement customarily is made by other nonfee charging placement facilities such as unions and professional associations.

Claimants who fall within the classes which ordinarily would require limited services or no services shall, if they request placement and employment services, be af-

forded such services as are necessary and appropriate for them to obtain suitable work or to achieve their reasonable employment goals.

On the other hand, a claimant who is permanently separated from his job is likely to require some services. He may need only some direction in how to get a job; he may need placement services if he is in an occupation for which there is some demand in the labor market area; if his occupation is outdated, he may require counseling and referral to a suitable training course. The extent and character of the services to be given any particular claimant may change with the length of his unemployment and depend not only on his own circumstances and conditions, but also on the condition of the labor market in the area.

D. Claimants are required to report to employment service personnel, as directed, but such personnel and the claims personnel are required to so arrange and coordinate the contacts required of a claimant as not to place an unreasonable burden on him or unreasonably limit his opportunity to establish his rights to compensation. As a general rule, a claimant is not required to contact in person claims personnel or employment service personnel more frequently than once a week, unless he is directed to report more frequently for a specific service such as referral to a job or a training course or counseling which cannot be completed in one visit.

E. Employment service personnel are required to report promptly to claims personnel in the office in which the claimant files his claim(s): (1) His failure to apply for or accept work to which he was referred by such personnel or when known, by any other nonfee-charging placement facility such as a union or a professional association; and (2) any information which becomes available to it that may have a bearing on the claimant's ability to work or availability for work, or on the suitability of work to which he was referred or which was offered to him.

5004 Evaluation of Alternative State Provisions. If the State law provisions do not conform to the "suggested State law requirements" set forth in sections 5001 and 5002, but the State law contains alternative provisions, the Manpower Administrator, in collaboration with the State agency, will study the actual or anticipated effect of the alternative provisions. If the Manpower Administrator concludes that the alternative provisions satisfy the requirements of the Federal law as construed by the Secretary (see section 5000 B) he will so notify the State agency. If he does not so conclude, he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy such requirements, the State agency will be so noti-

ned. If the Secretary concludes that there is a question as to whether the alternative provisions satisfy such requirements, the State agency will be advised that unless the State law provisions are appropriately revised, a notice of hearing will be issued as required by the Code of Federal Regulations, title 20, section 601.3.

[53 FR 40555, Oct. 17, 1988; 53 FR 43799, Oct. 26, 1988]

APPENDIX "B" TO PART 614—STANDARD FOR CLAIM DETERMINATION—SEPARATION INFORMATION

EMPLOYMENT SECURITY MANUAL (PART V, SECTIONS 6010-6015)

6010-6019 Standard for Claim Determinations—Separation Information*

6010 Federal Law Requirements. Section 303(a)(1) of the Social Security Act requires that a State law include provision for:

"Such methods of administration . . . as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

Section 303(a)(3) of the Social Security Act requires that a State law include provision for:

"Opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied."

Section 3304(a)(4) of the Federal Unemployment Tax Act and section 303(a)(5) of the Social Security Act require that a State law include provision for:

"Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation * * *."

Section 3306(h) of the Federal Unemployment Tax Act defines "compensation" as "cash benefits payable to individuals with respect to their unemployment."

6011 Secretary's Interpretation of Federal Law Requirements. The Secretary interprets the above sections to require that a State law include provisions which will insure that:

A. Individuals who may be entitled to unemployment compensation are furnished such information as will reasonably afford them an opportunity to know, establish, and protect their rights under the unemployment compensation law of such State, and

B. The State agency obtains and records in time for the prompt determination and review of benefit claims such information as will reasonably insure the payment of benefits to individuals to whom benefits are due.

6012 Criteria for Review of State Law Conformity with Federal Requirements

In determining the conformity of a State law with the above requirements of the Federal Unemployment Tax Act and the Social Security Act as interpreted by the Secretary, the following criteria will be applied:

A. Is it required that individuals who may be entitled to unemployment compensation be furnished such information of their potential rights to benefits, including the manner and places of filing claims, the reasons for determinations, and their rights of appeal, as will insure them a reasonable opportunity to know, establish, and protect their rights under the law of the State?

B. Is the State agency required to obtain, in time for prompt determination of rights to benefits such information as will reasonably insure the payment of benefits to individuals to whom benefits are due?

C. Is the State agency required to keep records of the facts considered in reaching determinations of rights to benefits?

6013 Claim Determinations Requirements Designed To Meet Department of Labor Criteria

A. *Investigation of claims.* The State agency is required to obtain promptly and prior to a determination of an individual's right to benefits, such facts pertaining thereto as will be sufficient reasonably to insure the payment of benefits when due.

This requirement embraces five separate elements:

1. It is the responsibility of the agency to take the initiative in the discovery of information. This responsibility may not be passed on the claimant or the employer. In addition to the agency's own records, this information may be obtained from the worker, the employer, or other sources. If the information obtained in the first instance discloses no essential disagreement and provides a sufficient basis for a fair determination, no further investigation is necessary. If the information obtained from other sources differs essentially from that furnished by the claimant, the agency, in order to meet its responsibility, is required to inform the claimant of such information from other sources and to afford the claimant an opportunity to furnish any further facts he may have.

2. Evidentiary facts must be obtained as distinguished from ultimate facts or conclusions. That a worker was discharged for misconduct is an ultimate fact or conclusion; that he destroyed a machine upon which he was working is a primary or evidentiary fact, and the sort of fact that the requirement refers to.

3. The information obtained must be sufficient reasonably to insure the payment of benefits when due. In general, the investigation made by the agency must be complete enough to provide information upon which the agency may act with reasonable assur-

* Revises subgrouping 6010-6019

ance that its decision is consistent with the unemployment compensation law. On the other hand, the investigation should not be so exhaustive and time-consuming as unduly to delay the payment of benefits and to result in excessive costs.

4. Information must be obtained promptly so that the payment of benefits is not unduly delayed.

5. If the State agency requires any particular evidence from the worker, it must give him a reasonable opportunity to obtain such evidence.

B. Recording of facts. The agency must keep a written record of the facts considered in reaching its determinations.

C. Determination notices

1. The agency must give each claimant a written notice of:

a. Any monetary determination with respect to his benefit year;

b. Any determination with respect to purging a disqualification if, under the State law, a condition or qualification must be satisfied with respect to each week of disqualification; but in lieu of giving written notice of each determination for each week in which it is determined that the claimant has met the requirements for purging the agency may inform the claimant that he has purged the disqualification for a week by notation on his applicant identification card or otherwise in writing.

c. Any other determination which adversely affects¹ his rights to benefits, except that written notice of determination need not be given with respect to:

(1) A week in a benefit year for which the claimant's weekly benefit amount is reduced in whole or in part by earnings if, the first time in the benefit year that there is such a reduction, he is required to be furnished a booklet or leaflet containing the information set forth below in paragraph 2f(1). However, a written notice of determination is re-

¹A determination "adversely affects" claimant's right to benefits if it: (1) Results in a denial to him of benefits (including a cancellation of benefits or wage credits or any reduction in whole or in part below the weekly or maximum amount established by his monetary determination) for any week or other period; or (2) denies credit for a waiting week; or (3) applies any disqualification or penalty; or (4) determines that he has not satisfied a condition of eligibility, requalification for benefits, or purging a disqualification; or (5) determines that an overpayment has been made or orders repayment or recoupment of any sum paid to him; or (6) applies a previously determined overpayment, penalty, or order for repayment or recoupment; or (7) in any other way denies claimant a right to benefits under the State law.

quired if: (a) There is a dispute concerning the reduction with respect to any week (e.g., as to the amount computed as the appropriate reduction, etc.); or (b) there is a change in the State law (or in the application thereof) affecting the reduction; or

(2) Any week in a benefit year subsequent to the first week in such benefit year in which benefits were denied, or reduced in whole or in part for reasons other than earnings, if denial or reduction for such subsequent week is based on the same reason and the same facts as for the first week, and if written notice of determination is required to be given to the claimant with respect to such first week, and with such notice of determination, he is required to be given a booklet or pamphlet containing the information set forth below in paragraphs 2f(2) and 2h. However, a written notice of determination is required if: (a) There is a dispute concerning the denial or reduction of benefits with respect to such week; or (b) there is a change in the State law (or in the application thereof) affecting the denial or reduction; or (c) there is a change in the amount of the reduction except as to the balance covered by the last reduction in a series of reductions.

NOTE: This procedure may be applied to determinations made with respect to any subsequent weeks for the same reason and on the basis of the same facts: (a) That claimant is unable to work, unavailable for work, or is disqualified under the labor dispute provision; and (b) reducing claimant's weekly benefit amount because of income other than earnings or offset by reason of overpayment.

2. The agency must include in written notices of determinations furnished to claimants sufficient information to enable them to understand the determinations, the reasons therefor, and their rights to protest, request reconsideration, or appeal.

The written notice of monetary determination must contain the information specified in the following items (except h) unless an item is specifically not applicable. A written notice of any other determination must contain the information specified in as many of the following items as are necessary to enable the claimant to understand the determination and to inform him of his appeal rights. Information specifically applicable to the individual claimant must be contained in the written notice of determination. Information of general application such as (but not limited to) the explanation of benefits for partial unemployment, information as to deductions, seasonality factors, and information as to the manner and place of taking an appeal, extension of the appeal period, and where to obtain information and assistance may be contained in a booklet or leaflet which is given the claimant with his monetary determination.

a. *Base period wages.* The statement concerning base-period wages must be in sufficient detail to show the basis of computation of eligibility and weekly and maximum benefit amounts. (If maximum benefits are allowed, it may not be necessary to show details of earnings.)

b. *Employer name.* The name of the employer who reported the wages is necessary so that the worker may check the wage transcript and know whether it is correct. If the worker is given only the employer number, he may not be able to check the accuracy of the wage transcript.

c. *Explanation of benefit formula—weekly and maximum benefit amounts.* Sufficient information must be given the worker so that he will understand how his weekly benefit amount, including allowances for dependents, and his maximum benefit amount were figured. If benefits are computed by means of a table contained in the law, the table must be furnished with the notice of determination whether benefits are granted or denied.

The written notice of determination must show clearly the weekly benefit amount and the maximum potential benefits to which the claimant is entitled.

The notice to a claimant found ineligible by reason of insufficient earnings in the base period must inform him clearly of the reason for ineligibility. An explanation of the benefit formula contained in a booklet or pamphlet should be given to each claimant at or prior to the time he receives written notice of a monetary determination.

d. *Benefit year.* An explanation of what is meant by the benefit year and identification of the claimant's benefit year must be included in the notice of determination.

e. *Information as to benefits for partial unemployment.* There must be included either in the written notice of determination or in a booklet or pamphlet accompanying the notice an explanation of the claimant's rights to partial benefits for any week with respect to which he is working less than his normal customary full-time workweek because of lack of work and for which he earns less than his weekly benefit amount or weekly amount plus earnings, whichever is provided by the State law. If the explanation is contained in the notice of determination, reference to the item in the notice in which his weekly benefit amount is entered should be made.

f. *Deductions from weekly benefits.*

(1) *Earnings.* Although written notice of determinations deducting earnings from a claimant's weekly benefit amount is generally not required (see paragraph 1c (1) above), where written notice of determination is required (or given) it shall set forth the amount of earnings, the method of computing the deduction in sufficient detail to enable the claimant to verify the accuracy of the deduction, and his right to protest, request redetermination, and appeal. Where a

written notice of determination is given to the claimant because there has been a change in the State law or in the application of the law, an explanation of the change shall be included.

Where claimant is not required to receive a written notice of determination, he must be given a booklet or pamphlet the first time in his benefit year that there is a deduction for earnings which shall include the following information:

(a) The method of computing deductions for earnings in sufficient detail to enable the claimant to verify the accuracy of the deduction;

(b) That he will not automatically be given a written notice of determination for a week with respect to which there is a deduction for earnings (unless there is a dispute concerning the reduction with respect to a week or there has been a change in the State law or in the application of the law affecting the deduction) but that he may obtain such a written notice upon request; and

(c) A clear statement of his right to protest, request a redetermination, and appeal from any determination deducting earnings from his weekly benefit amount even though he does not automatically receive a written notice of determination; and if the State law requires written notice of determination in order to effectuate a protest, redetermination, or appeal, he must be so advised and advised also that he must request a written notice of determination before he takes any such action.

(2) *Other deductions.*

(a) A written notice of determination is required with respect to the first week in claimant's benefit year in which there is a reduction from his benefits for a reason other than earnings. This notice must describe the deduction made from claimant's weekly benefit amount, the reason for the deduction, the method of computing it in sufficient detail to enable him to verify the accuracy of such deduction, and his right to protest, request redetermination, or appeal.

(b) A written notice of determination is not required for subsequent weeks that a deduction is made for the same reason and on the basis of the same facts, if the notice of determination pursuant to (2)(a), or a booklet or pamphlet given him with such notice explains: (i) The several kinds of deductions which may be made under the State law (e.g., retirement pensions, vacation pay, and overpayments); (ii) the method of computing each kind of deduction in sufficient detail that claimant will be able to verify the accuracy of deductions made from his weekly benefit payments; (iii) any limitation on the amount of any deduction or the time in which any deduction may be made; (iv) that he will not automatically be given a written notice of determination for subsequent weeks with respect to which there is a deduc-

tion for the same reason and on the basis of the same facts, but that he may obtain a written notice of determination upon request; (v) his right to protest, request redetermination, or appeal with respect to subsequent weeks for which there is a reduction from his benefits for the same reason, and on the basis of the same facts even though he does not automatically receive a written notice of determination; and (vi) that if the State law requires written notice of determination in order to effectuate a protest, redetermination, or appeal, he must be so advised and advised also that he must request a written notice of determination before he takes any such action.

g. *Seasonality factors.* If the individual's determination is affected by seasonality factors under the State law, an adequate explanation must be made. General explanations of seasonality factors which may affect determinations for subsequent weeks may be included in a booklet or pamphlet given with his notice of monetary determination.

h. *Disqualification or ineligibility.* If a disqualification is imposed, or if the claimant is declared ineligible for one or more weeks, he must be given not only a statement of the period of disqualification or ineligibility and the amount of wage-credit reductions, if any, but also an explanation of the reason for the ineligibility or disqualification. This explanation must be sufficiently detailed so that he will understand why he is ineligible or why he has been disqualified, and what he must do in order to requalify for benefits or purge the disqualification. The statement must be individualized to indicate the facts upon which the determination was based, e.g., state, "It is found that you left your work with Blank Company because you were tired of working; the separation was voluntary, and the reason does not constitute good cause," rather than merely the phrase "voluntary quit." Checking a box as to the reason for the disqualification is not a sufficiently detailed explanation. However, this statement of the reason for the disqualification need not be a restatement of all facts considered in arriving at the determination.

i. *Appeal rights.* The claimant must be given information with respect to his appeal rights.

(1) The following information shall be included in the notice of determination:

(a) A statement that he may appeal or, if the State law requires or permits a protest or redetermination before an appeal, that he may protest or request a redetermination.

(b) The period within which an appeal, protest, or request for redetermination must be filed. The number of days provided by statute must be shown as well as either the beginning date or ending date of the period. (It is recommended that the ending date of the appeal period be shown, as this is the more understandable of the alternatives.)

(2) The following information must be included either in the notice of determination or in separate informational material referred to in the notice:

(a) The manner in which the appeal, protest, or request for redetermination must be filed, e.g., by signed letter, written statement, or on a prescribed form, and the place or places to which the appeal, protest, or request for redetermination may be mailed or hand-delivered.

(b) An explanation of any circumstances (such as nonworkdays, good cause, etc.) which will extend the period for the appeal, protest, or request for redetermination beyond the date stated or identified in the notice of determination.

(c) That any further information claimant may need or desire can be obtained together with assistance in filing his appeal, protest, or request for redetermination from the local office.

If the information is given in separate material, the notice of determination would adequately refer to such material if it said, for example, "For other information about your (appeal), (protest), (redetermination) rights, see pages — to — of the — (name of pamphlet or booklet) heretofore furnished to you."

6014 *Separation Information Requirements Designed To Meet Department of Labor Criteria*

A. *Information to agency.* Where workers are separated, employers are required to furnish the agency promptly, either upon agency request or upon such separation, a notice describing the reasons for and the circumstances of the separation and any additional information which might affect a claimant's right to benefits. Where workers are working less than full time, employers are required to furnish the agency promptly, upon agency request, information concerning a claimant's hours of work and his wages during the claim periods involved, and other facts which might affect a claimant's eligibility for benefits during such periods.

When workers are separated and the notices are obtained on a request basis, or when workers are working less than full time and the agency requests information, it is essential to the prompt processing of claims that the request be sent out promptly after the claim is filed and the employer be given a specific period within which to return the notice, preferably within 2 working days.

When workers are separated and notices are obtained upon separation, it is essential that the employer be required to send the notice to the agency with sufficient promptness to insure that, if a claim is filed, it may be processed promptly. Normally, it is desirable that such a notice be sent to the central office of the agency, since the employer may

not know in which local office the worker will file his claim. The usual procedure is for the employer to give the worker a copy of the notice sent by the employer to the agency.

B. Information to worker.

1. *Information required to be given.* Employees are required to give their employers information and instructions concerning the employees' potential rights to benefits and concerning registration for work and filing claims for benefits.

The information furnished to employees under such a requirement need not be elaborate; it need only be adequate to insure that the worker who is separated or who is working less than full time knows he is potentially eligible for benefits and is informed as to what he is to do or where he is to go to file his claim and register for work. When he files his claim, he can obtain more detailed information.

In States that do not require employers to furnish periodically to the State agency detailed reports of the wages paid to their employees, each employer is required to furnish to his employees information as to: (a) The name under which he is registered by the State agency, (b) the address where he maintains his payroll records, and (c) the workers' need for this information if and when they file claims for benefits.

2. *Methods for giving information.* The information and instructions required above may be given in any of the following ways:

a. *Posters prominently displayed in the employer's establishment.* The State agency should supply employers with a sufficient number of posters for distribution throughout their places of business and should see that the posters are conspicuously displayed at all times.

b. *Leaflets.* Leaflets distributed either periodically or at the time of separation or reduction of hours. The State agency should supply employers with a sufficient number of leaflets.

c. *Individual notices.* Individual notices given to each employee at the time of separation or reduction in hours.

It is recommended that the State agency's publicity program be used to supplement the employer-information requirements. Such a program should stress the availability and location of claim-filing offices and the importance of visiting those offices whenever the worker is unemployed, wishes to apply for benefits, and to seek a job.

6015 *Evaluation of Alternative State Provisions with Respect to Claim Determinations and Separation Information.* If the State law provisions do not conform to the suggested requirements set forth in sections 6013 and 6014, but the State law contains alternative provisions, the Bureau of Employment Security, in collaboration with the State agency, will study the ac-

tual or anticipated effects of the alternative provisions. If the Administrator of the Bureau concludes that the alternative provisions satisfy the criteria in section 6012, he will so notify the State agency. If the Administrator of the Bureau does not so conclude, he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy the criteria in section 6012, the State agency will be so notified. If the Secretary concludes that there is a question as to whether the alternative provisions satisfy the criteria, the State agency will be advised that unless the State law provisions are appropriately revised, a notice of hearing will be issued as required by the Code of Federal Regulations, title 20, §601.5.

[53 FR 40557, Oct. 17, 1988; 53 FR 43799, Oct. 26, 1988]

APPENDIX "C" TO PART 614—STANDARD FOR FRAUD AND OVERPAYMENT DETECTION

EMPLOYMENT SECURITY MANUAL (PART V, SECTIONS 7510-7515)

7510-7519 *Standard for Fraud and Overpayment Detection*

7510 *Federal Law Requirements.* Section 303(a)(1) of the Social Security Act requires that a State law include provision for:

"Such methods of administration * * * as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

Section 1603(a)(4) of the Internal Revenue Code and section 3030(a)(5) of the Social Security Act require that a State law include provision for:

"Expenditure for all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation * * *"

Section 1607(h) of the Internal Revenue Code defines "compensation" as "cash benefits payable to individuals with respect to their unemployment."

7511 *The Secretary's Interpretation of Federal Law Requirements.* The Secretary of Labor interprets the above sections to require that a State law include provision for such methods of administration as are, within reason, calculated (1) to detect benefits paid through error by the agency or through willful misrepresentation or error by the claimant or others, and (2) to deter claimants from obtaining benefits through willful misrepresentation.

7513 *Criteria for Review of State Conformity With Federal Requirements.* In determining State conformity with the above require-

ments of the Internal Revenue Code and the Social Security Act, as interpreted by the Secretary of Labor, the following criteria will be applied:

A. Are investigations required to be made after the payment of benefits, (or, in the case of interstate claims, are investigations made by the agent State after the processing of claims) as to claimants' entitlement to benefits paid to them in a sufficient proportion of cases to test the effectiveness of the agency's procedures for the prevention of payments which are not due? To carry out investigations, has the agency assigned to some individual or unit, as a basic function, the responsibility of making or functionally directing such investigations?

Explanation: It is not feasible to prescribe the extent to which the above activities are required; however, they should always be carried on to such an extent that they will show whether or not error or willful misrepresentation is increasing or decreasing, and will reveal problem areas. The extent and nature of the above activities should be varied according to the seriousness of the problem in the State. The responsible individual or unit should:

1. Check paid claims for overpayment and investigate for willful misrepresentation or, alternatively, advise and assist the operating units in the performance of such functions, or both;
2. Perform consultative services with respect to methods and procedures for the prevention and detection of fraud; and
3. Perform other services which are closely related to the above.

Although a State agency is expected to make a full-time assignment of responsibility to a unit or individual to carry on the functions described above, a small State agency might make these functions a part-time responsibility of one individual. In connection with the detection of overpayments, such a unit or individual might, for example:

- (a) Investigate information on suspected benefit fraud received from any agency personnel, and from sources outside the agency, including anonymous complaints;
- (b) Investigate information secured from comparisons of benefit payments with employment records to detect cases of concurrent working (whether in covered or noncovered work) and claiming of benefits (including benefit payments in which the agency acted as agent for another State).

The benefit fraud referred to herein may involve employers, agency employees, and witnesses, as well as claimants.

Comparisons of benefit payments with employment records are commonly made either by post-audit or by industry surveys. The so-called "post-audit" is a matching of central office wage-record files against benefit payments for the same period. "Industry surveys" or "mass audits" are done in some States by going directly to employers for

pay-roll information to be checked against concurrent benefit lists. A plan

A. of investigation based on a sample post-audit will be considered as partial fulfillment of the investigation program; it would need to be supplemented by other methods capable of detecting overpayments to persons who have moved into noncovered occupations or are claiming interstate benefits.

B. Are adequate records maintained by which the results of investigations may be evaluated? *
Explanation. To meet this criterion, the State agency will be expected to maintain records of all its activities in the detection of overpayments, showing whether attributable to error or willful misrepresentation, measuring the results obtained through various methods, and noting the remedial action taken in each case. The adequacy and effectiveness of various methods of checking for willful misrepresentation can be evaluated only if records are kept of the results obtained. Internal reports on fraudulent and erroneous overpayments are needed by State agencies for self-evaluation. Detailed records should be maintained in order that the State agency may determine, for example, which of several methods of checking currently used are the most productive. Such records also will provide the basis for drawing a clear distinction between fraud and error.

C. Does the agency take adequate action with respect to publicity concerning willful misrepresentation and its legal consequences to deter fraud by claimants? *

Explanation. To meet this criterion, the State agency must issue adequate material on claimant eligibility requirements and must take necessary action to obtain publicity on the legal consequences of willful misrepresentation or willful nondisclosure of facts.

Public announcements on convictions and resulting penalties for fraud are generally considered necessary as a deterrent to other persons, and to inform the public that the agency is carrying on an effective program to prevent fraud. This alone is not considered adequate publicity. It is important that information be circulated which will explain clearly and understandably the claimant's rights, and the obligations which he must fulfill to be eligible for benefits. Leaflets for distribution and posters placed in local offices are appropriate media for such information.

7515 *Evaluation of Alternative State Provisions with Respect to Erroneous and Illegal Payments.* If the methods of administration provided for by the State law do not conform to the suggested methods of meeting the requirements set forth in section 7511, but a State law does provide for alternative methods of administration designed to accomplish the same re-

* Revises section 7513 as issued 5/5/50.

Employment and Training Administration, Labor

sults, the Bureau of Employment Security, in collaboration with the State agency, will study the actual or anticipated effect of the alternative methods of administration. If the Bureau concludes that the alternative methods satisfy the criteria in section 7513, it will so notify the State agency. If the Bureau does not so conclude, it will submit to the Secretary the results of the study for his determination of whether the State's alternative methods of administration meet the criteria.*

*Revises section 7513 as issued 5/5/50.

APPENDIX C

UCFE-UCX AGREEMENT

Between

and

THE SECRETARY OF LABOR OF THE UNITED STATES

The Secretary of Labor (hereinafter "the Secretary"), on behalf of the United States, and _____, on behalf of the _____, (hereinafter "the Agency"), in order to carry out the programs of unemployment compensation for Federal civilian employees and for ex-servicemembers established by 5 U.S.C. Chapter 85 (hereinafter "the UCFE-UCX programs"), hereby agree that:

1. The agency will act as agent of the United States for the purpose of making payments under the UCFE-UCX programs and will cooperate with the Secretary and employment security agencies of other States in making such payments.
2. In carrying out this agreement the Agency will abide by the cited Federal statutes and regulations and procedures adopted thereunder, provided that due notice of the adoption of such regulations and procedures has been given to the Agency.
3. The Agency will give the Secretary such information as he/she may find necessary to implement the UCFE-UCX programs and will make all records pertaining to such programs available for inspection, examination and audit by Federal employees designated by the Secretary.
4. The Agency will use all money paid to the State for UCFE-UCX benefits solely for that purpose and will return to the United States Treasury, upon request of the Secretary, any such money (a) if the Secretary finds that the money is not needed for such purpose or that the money has been used for a purpose other than for which it was paid, or (b) on termination of this agreement.

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5. The agency will take such action as reasonably may be necessary to recover for the account of the United States erroneous payments of UCFE-UCX benefits pursuant to this agreement.

6. To the extent that agencies of the State obtain bonds to protect funds of the State, the Agency will obtain bonds to protect funds made available to it for UCFE-UCX benefits. The prorata cost of such bonds shall be considered a necessary cost of administration. If under the State law, the State acts as a self-insurer of State funds and does not obtain bonds to protect them, the Agency shall so inform the Secretary in writing and in such cases, the United States will act as a self-insurer with respect to funds for payment of UCFE-UCX benefits made available to the State under this agreement.

7. The Agency will apply to personnel engaged in function undertaken pursuant to this agreement the merit system required to be applicable to personnel engaged in unemployment compensation functions by Section 303(a)(1) of the Social Security Act, 42 U.S.C. 503(a)(1).

8. This agreement supercedes all prior agreements relating to UCFE-UCX benefits executed by the parties or their predecessors. It may be amended by mutual consent or terminated by either party on 30 days notice. If this agreement is terminated, the Agency will process and pay UCFE-UCX claims, when due, for all weeks of unemployment beginning prior to the date of termination.

Signed this _____ day of _____

(Title of State Official)

Signed this _____ day of _____

(Secretary of Labor)

NARRATIVE REASONS FOR SEPARATION

"ACCEPTABLE" Narrative Reasons for Separation Meeting the Requirements of 5 U.S.C. 8521(a)(1)(B)(ii)(I)-(IV)

For the convenience of the government under an early release program (5 U.S.C. 8521(a)(1)(B)(ii)(I))

Medal of Honor Recipient
Completion of Required Active Service
Insufficient Retainability (Economic Reasons)
Reduction in Force
To Attend School
Holiday Early Release Program
Defective Enlistment Agreement
Erroneous Entry (Other)
Intradepartmental Transfer* (see below)
Miscellaneous/General Reasons** (see below)

Because of medical disqualification, pregnancy, parenthood, or Service-incurred injury or disability (5 U.S.C. 8521(a)(1)(B)(ii)(II))

Pregnancy or Childbirth
Parenthood or Custody of Minor Children
Conditions, not Disability
Disability, Severance Pay
Disability, Permanent
Disability, Temporary
Disability, Existed Prior to Service, PEB
Disability, Existed Prior to Service, Med BD
Disability, Aggravated
Disability, Other

Because of hardship (5 U.S.C. 8521(a)(1)(B)(ii)(III))
Surviving Member
Hardship

* Effective for separations on or after September 1, 1994.

** Pertaining only to Army Lieutenants' separations under the ANGCR program occurring May 1, 1998 through September 30, 1998 and May 1, 1999 through September 30, 1999 and every other year thereafter for the May 1 through September 30 period. Also requires "Orders to Report" and "Orders of Release" or "Orders to Report" containing an endorsement of release to be presented to the SESA indicating the servicemember was discharged under the ANGCR program.

NARRATIVE REASONS FOR SEPARATION

Because of personality disorders or inaptitude, but only if the service was continuous for 365 days or more (5 U.S.C. 8521(a)(1)(B)(ii)(IV))

Personality Disorder

The following are narrative reasons for separation that DOL has determined constitute "inaptitude" within the meaning of 5 U.S.C. 8521(a)(1)(B)(ii)(IV).

Conscientious Objector
Weight Control Failure
Ecclesiastical Endorsement
Secretarial Authority
Physical Standards
Erroneous Entry, Alcohol Abuse
Erroneous Entry, Drug Abuse
Non-selection, Permanent Promotion
Non-selection, Temporary Promotion
Failure to Complete a Commission or Warrant Program
Failure to Complete a Course of Instruction
Unsatisfactory Performance
Substandard Performance
Personal Alcohol Abuse
Alcohol Rehabilitation Failure
Drug Rehabilitation Failure
Military Personnel Security Program
Homosexual Admission
Homosexual Act
Non-retention on Active Duty

Effective Date: The narrative reasons for separation that the Department of Labor (DOL) has determined constitute "inaptitude" within the meaning of 5 U.S.C. 8521(a)(1)(B)(ii)(IV), listed above, shall be effective for all initial claims filed on and after the November 10, 1998, issuance date of UIPL 3-95, Change 2.

Where State law permits, new eligibility determinations must be issued when: (1) a claimant requests a determination or redetermination on a new or previously denied claim, or files an additional or renewed claim for benefits, and (2) the claimant's military service is recent enough to support a current claim for unemployment benefits.

However, benefits payable based upon a narrative reason for separation that DOL has determined constitutes "inaptitude" will be payable only for weeks of unemployment beginning after November 10, 1998.

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NARRATIVE REASONS FOR SEPARATION

Effective Date

The narrative reasons for separation that DOL has determined constitute "inaptitude" within the meaning of 5 U.S.C. 8521(a)(1)(B)(ii)(IV) shall be effective for all initial claims filed on and after the November 10, 1998 issuance date of UIPL No. 3-95, Change 2.

Where State law permits, new eligibility determinations must be issued when: (1) a claimant requests a redetermination on a new or previously denied claim or files an additional or renewed claim for benefits, and (2) the claimant's military service is recent enough to support a current claim for unemployment benefits.

However, benefits will be payable under this new interpretation only for weeks of unemployment beginning after November 10, 1998. Therefore, although a redetermination may result in future eligibility or a higher weekly benefit amount, no back payments will be made as a result of past military service that now falls within the definition of "inaptitude."

APPENDIX E

Definitions.

(1) "Act" means subchapter II of chapter 85 of title II of chapter 85 of title 5 of the United States Code, 5 U.S.C. 8521-8525.

(2) "Agreement" means the Agreement entered into pursuant to 5 U.S.C. 8502 between a State and the Secretary under which the State agency of the State agrees to make payments of unemployment compensation in accordance with the Act and the regulations and procedures thereunder prescribed by the Department.

(3) "Base period" means the base period as defined by the applicable State law for the benefit year.

(4) "Benefit Year" means the benefit year as defined by the applicable State law, and if not so defined the term means the period prescribed in the Agreement with the State or, in the absence of an Agreement, the period prescribed by the Department.

(5) "Ex-servicemember" means an individual who has performed Federal military service.

(6) "Federal Military Agency" means any of the Armed Forces of the United States, including the Army, Air Force, Navy, Marine Corps and Coast Guard, and the National Oceanic and Atmospheric Administration (Department of Commerce).

(7) "Federal military service" means active service (not including active duty in a reserve status unless for a continuous period of 90 days or more) in the Armed Forces or Commissioned Corps of the National Oceanic and Atmospheric Administration if with respect to that service-

(i) The individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); and

(ii) (A) The individual was discharged or released after completing his/her first full term of active service which the individual initially agreed to serve, or

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(B) The individual was discharged or released before completing such term of active service-

(1) For the convenience of the Government under an early release program,

(2) Because of medical disqualification, pregnancy, parenthood, or any service-incurred injury or disability,

(3) Because of hardship, or

(4) Because of personality disorder or inaptitude but only if the service was continuous for 365 days or more.

(8) "Federal military wages" means all pay and allowances in cash and in kind for Federal military service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his or her latest discharge or release from Federal/military service, as determined in accordance with the Schedule of Remuneration applicable at the time the individual files his or her first claim for compensation for a benefit year.

(9) "First claim" means an initial claim for unemployment compensation under the UCX Program, the UCFE Program (5 U.S.C. 8501 et seq and 20 CFR Part 609) or a State law, or some combination thereof, first filed by an individual after the individual's latest discharge or release from Federal military service, whereby a benefit year is established under an applicable State law.

(10) "Military Document" means an official document or documents issued to an individual by a Federal military agency relating to the individual's Federal military service and discharge or release from such service.

(11) "Period of active service" means a period of continuous active duty (including active duty for training purposes) in a Federal military agency or agencies, beginning with the date of entry upon active duty and ending on the effective date of the first discharge or release thereafter which is not qualified or conditional.

APPENDIX E

(12) "Schedule of Remuneration" means the schedule issued by the Department from time to time under 5 U.S.C. 8521(a)(2) and 20 CFR Part 614 which specifies for purposes of the UCX Program, the pay and allowances for each pay grade of servicemember.

(13) "Secretary" means the Secretary of Labor of the United States.

(14) "State" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(15) "State agency" means the agency of the State which administers the applicable State unemployment compensation law and is administering the UCX Program in the State pursuant to an Agreement with the Secretary.

(16) "Applicable State" means the State to which the individual's Federal military service and Federal military wages are assigned or transferred.

(17) "State law" means the unemployment compensation law of a State approved by the Secretary under section 3304 of the Internal Revenue Code of 1954, 26 U.S.C. 3304, if the State is certified under section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c).

(18) "Applicable State law" means the State law made applicable to a UCX claimant by reason of his/her Federal military service and Federal military wages being assigned or transferred to that State.

(19) "Unemployment compensation means cash benefits (including dependents allowances) payable to individuals with respect to their unemployment, and includes regular, additional, emergency, and extended compensation.

(i) "Regular compensation" means unemployment compensation payable to an individual under any State law, but not including additional compensation or extended compensation.

(ii) "Additional compensation" means unemployment compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors.

APPENDIX E

(iii) "Emergency compensation" means supplementary unemployment compensation payable under a temporary Federal law after exhaustion of regular and extended compensation.

(iv) "Extended compensation" means unemployment compensation payable to an individual for weeks of unemployment in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, 26 U.S.C. 3304 note, and 20 Part 615 with respect to the payment of extended compensation.

(20) "Unemployment Compensation for Ex-servicemember" means the unemployment compensation payable under the Act to claimants eligible for the payments, and is referred to as "UCX."

(21) "Week" means, for purposes of eligibility for and payment of UCX, a week as defined in the applicable State law.

(22) "Week of unemployment" means, a week of total, part-total, or partial unemployment as defined in the applicable State law, which shall be applied in the same manner and to the same extent for the purposes of the UCX Program, as if the individual filing for UCX were filing a claim for State unemployment compensation.

APPENDIX F

GLOSSARY OF TERMS.

- (1) "Constructive Completion of a first full term of active service" means any combination of "prior active service" in item 12d of DD Form 214 and "net active service in the current period" shown in item 12c of DD Form 214 that meets or exceeds the amount of active service required above for completion of a "first full term of active service."
- (2) "Entry Level Separation" in item 24 of DD Form 214 mean that the individual's character of discharge was "Under Honorable Conditions."
- (3) "Void Enlistment" in item 24 of DD Form 214 mean that the individual's character of discharge does not meet the Federal Service criteria for UCX benefits.
- (4) "Excess Leave" is defined as creditable Federal military service by the Department of Defense. However, pay and allowances are not compensated during an "excess leave" period.
- (5) "Not Characterized" in item 24 of DD Form 214 mean that the service was too short for a fair rating or a fraudulent enlistments.
- (6) "Orders to Report, Orders of Release and Orders to report containing an endorsement of release" are military documents used in lieu of DD Form 214 to determine UCX eligibility only if the DD Form 214 is not issued according to appropriate service regulations.

