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Supporting Reservists and Their Employers

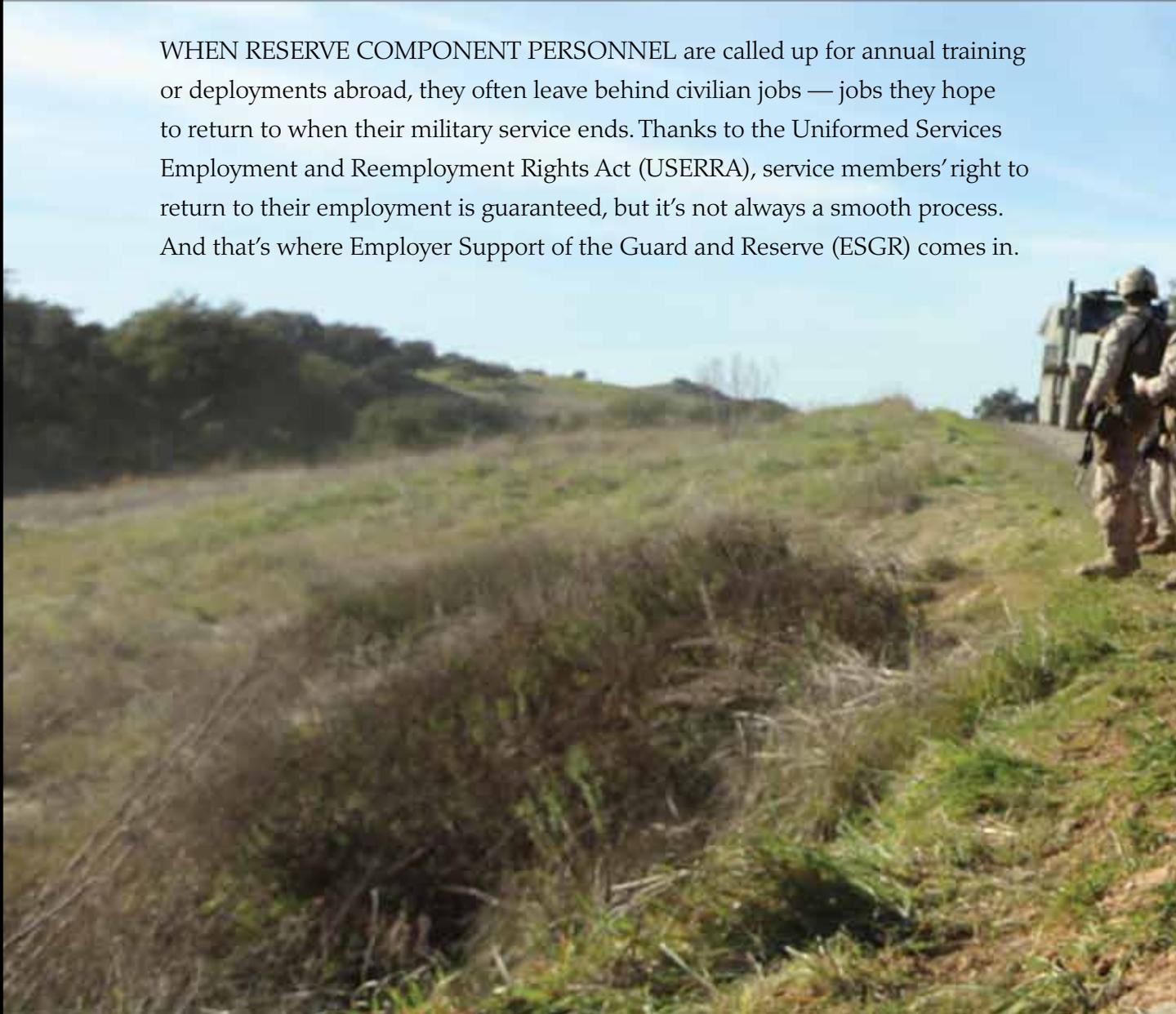
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ESGR

Supporting Reservists and Their Emp

WHEN RESERVE COMPONENT PERSONNEL are called up for annual training or deployments abroad, they often leave behind civilian jobs — jobs they hope to return to when their military service ends. Thanks to the Uniformed Services Employment and Reemployment Rights Act (USERRA), service members' right to return to their employment is guaranteed, but it's not always a smooth process. And that's where Employer Support of the Guard and Reserve (ESGR) comes in.





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By Cpl. Jad Slieman
and Lauren Armstrong

Founded in 1972, ESGR is a Department of Defense organization that aims to strengthen the ties between Guard and Reserve service members and their civilian employers. In essence, ESGR makes sure forward-deployed service members aren't worried about job security back home.

"ESGR is an incredible program for our returning heroes," says Army Reserve LtCol. Cynthia Norwood, the director of ESGR ombudsmen for the Commonwealth of Virginia. "The last thing a service member needs to worry about is being treated unfairly because of his or her military service."

"Without employer support, there's no way Guard or Reserve members could serve with the peace of mind that they can return to their jobs," adds Air Force Reserve Maj. Melissa Phillips, ESGR's strategic communication chief, who commends employers, like FRA, that sign a statement of support for the Guard and Reserve.

Educating Employers and Employees

One of the primary purposes of ESGR, explains Phillips, is to educate employees and their employers about USERRA provisions. ESGR's 54 State Committees, which include Guam, the U.S. Virgin Islands, Puerto Rico and D.C., conduct employer and military outreach programs to help both segments better understand the law and encourage employers and service members to contact their local ESGR office if they have questions.

Guard and Reserve personnel can find more information or find a local ESGR representative at www.esgr.mil or by calling 1-800-336-4590.

"There's been a big push in the last few years to make sure that members of the Guard and Reserve know that ESGR exists," said Phillips. "Over this past year, we sent out more than 800,000 brochures to service members."

"It's become very prominent that we become engaged with ESGR," said R. J. Tobin, the Marine Corps ESGR Reserve Component Liaison, "because it's not only a Guard program. It's a Reserve program, as well. We facilitate all, but my focus is Marine-specific."

Tobin was a Marine for 30 years and affiliated with

the Reserve component for five of them. His experience and understanding of the Marine mentality and language is what made him the man for this job. Like his fellow component liaisons with the Navy, Air Force, Army and Coast Guard, Tobin speaks the language he learned in the service.

"I already know — we have 183 sites; 339,600 Reserve Marines; the make-up of the MSC's (major subordinate commands). I'm their conduit. I truly am," he said.

After only three months in his office at Marine Forces Reserve headquarters in New Orleans, Tobin has made strides to create a functional information exchange program that not only spreads the word about Reserve Marines' rights and obligations under USERRA, but is also a sounding board from the field.

The value of ESGR is apparent across the services, explains Coast Guard Cmdr. Kirby Sniffen, who is involved with the Coast Guard's ESGR public affairs efforts. Like the Marine Corps and other services in the Department of Defense (DoD), "we're working to broaden our communications efforts throughout

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the Coast Guard. The Coast Guard only comprises about one percent of the total Reserve Force and we're fortunate to have a good relationship with DoD, as our folks sometimes deploy with DoD services."

"ESGR is a great resource for our members, but it's not helpful if they don't take advantage of it," adds Sniffen. "We try to educate Coast Guard personnel about the USERRA law and the resources available to them and often request national ESGR staff to brief our units as they deploy. Port Security Units, for example, are primarily made up of Reservists, with a Reserve commanding officer and active duty support staff. We also work hard to ensure Individual Augmentees also get the information they need."

Part of the information ESGR is working to get out is the fact that communication is key between Guard and Reserve service members and their civilian employers. It's a two-way street, says Phillips, because both the Reservist and his or her employer play a part in making sure deployments and training don't derail civilian work. A good employer, she said, knows

The 2010 Secretary of Defense Employer Support Freedom Award Recipients



Intuit, Inc. nominator Tim Graczewski, Intuit, Inc. President and CEO Brad Smith and ESGR National Chairman James G. Rebholz at the 2010 Secretary of Defense Employer Support Freedom Award ceremony.

- Bill Bragg Plumbing, San Francisco, Calif.*
- City of Irvine Police Department, Irvine, Calif.*
- Dollar General Corp., Goodlettsville, Tenn.*
- East Carolina University, Greenville, N.C.*
- Food Lion, Salisbury, N.C.*
- Franklin's Printing, Murfreesboro, Tenn.*
- Hawaii State Government, Honolulu, Hawaii*
- Intuit, Mountain View, Calif.*
- Legacy Sports International, Reno, Nev.*
- Logistics Health Inc., La Crosse, Wis.*
- Merck, Whitehouse Station, N.J.*
- Michigan State Police, Lansing, Mich.*
- Newmont Mining Corp., Denver, Colo.*
- Southern Co., Atlanta, Ga.*
- Yerecic Label, New Kensington, Pa.*



about USERRA and understands it well, while a good employee knows how to communicate with his or her boss about upcoming military duties.

"We work to make sure that employers follow the law, but we also remind members of the Guard and Reserve to be the best employees they can be," echoes Norwood.

Recognizing Outstanding Employers

Employer recognition is another important facet of the ESGR effort. Sponsored by the National Committee of ESGR, the program honors employers whose policies and practices are supportive of their employees' involvement with the Guard or Reserve.

Many employers go above and beyond the requirements of USERRA, explains Sniffen. "Several of last year's top winners provided full pay and benefits for their Guard or Reserve employee while he or she was deployed. Others made up the difference between the salary they were earning in their civilian job and their Guard or Reserve pay, and some had programs that kept full benefits in place [while they were deployed]. If I were looking for a great place to work, I'd take a look at the top ESGR award winners. But there are a lot of non-winners who also do a lot of great things."

Each year, ESGR presents "Patriot Awards" (a certificate and lapel pin) to all employers who are nominated by a Reserve Component employee or spouse. These nominees are subsequently considered to receive higher level awards. For example, "Above and Beyond Awards" are presented at the state or territory level to employers who exceed the legal requirements for granting leave and supporting the military duty of their employees. The "Pro Patria Award" recognizes the top employer from large business, small business and the public sector in the state or territory. The "Secretary of Defense Employer Support Freedom Awards," DoD's most prestigious recognition, are presented by the Secretary of Defense annually for outstanding support to National Guard and Reserve employees. The 2010 Freedom Award recipients ranged from small mom-and-pop companies to the State of Hawaii, and all provided exceptional support to their military employees.

For example, when Navy Reserve Lt. Tim Graczewski told his boss at California-based Intuit of his upcoming deployment, he knew they were behind him right from the start. The company's top executives stopped by his office to wish him well. His fellow employees arranged for him to read stories to his seven-year-old son in the company's professional sound studio and gave the Graczewski family a professionally produced CD of the readings as a going-away gift. The 7,700-employee company paid him the difference between his Intuit salary and his Reserve pay, and also continued his insurance benefits in his absence.

Although there are varying levels of recognition, all awards originate with a nomination by the Reserve Component employee. Nominations can be submitted online at www.esgr.mil, or forms are available at local ESGR Committee offices (visit <http://esgr.org/site/Contact/StateLocalContacts.aspx> for locations) or by calling ESGR Headquarters at 1-800-336-4590.

"Of the 30 finalists for the 2010 Freedom Awards, we were proud to have a Coast Guard employer among them," says Sniffen. "That's a big deal to us. Having a winner who employs a Coastie helps us to encourage others to nominate their employer for the recognition they deserve. We encourage our members to understand it's not about them; it's about recognizing employers and encouraging other employers to do the right thing for their Guard and Reserve employees."



USERRA Overview

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects civilian job rights and benefits for veterans and members of the Reserve Components. The law, enacted on October 13, 1994 (PL 103-353), applies to virtually all employers, regardless of size, and provides reemployment rights to individuals who have been absent from the job because of voluntary or involuntary duty in the uniformed services (i.e. Army, Navy, Marine Corps, Air Force, Coast Guard, and their respective Reserve components, the Army National Guard, Air National Guard, Commissioned Corps of Public Health Service and any other category designated by the President in time of war or emergency).

The general premise of the law is to ensure service members are not disadvantaged in their civilian careers because of their military service; are promptly reemployed in their civilian jobs upon their return from duty;

and are not discriminated against in employment based on past, present, or future military service.

The law also protects employers. Employees are required to provide advance notice of their military service, unless military necessity prevents it or it's unreasonable to do so. And employers aren't expected to keep positions open indefinitely, either. Guard and Reserve members may be absent for a cumulative period of five years, or up to seven years if the employee is recovering from injuries received during their military service or training. "After five years, it's implied that the service member has changed jobs," explains Coast Guard Commander Kirby Sniffen, "and USERRA no longer applies."

Additionally, USERRA rights don't apply when an employee is separated from military service with a dishonorable or bad conduct discharge, or is separated under other-than-honorable conditions. Individuals who are dropped from the military rolls for being absent without authority for more than three months or are imprisoned by a civilian court are also ineligible to assert their USERRA rights, as are commissioned officers dismissed from duty in situations involving a court martial.

Service members are required to apply for reemployment or report to work within a reasonable time following his/her military duty. For shorter periods of service — less than 31 days — the service member is required to return to work at the beginning of the next work period after release from

the military, taking into account travel time and an eight-hour rest period. Those who've served more than 30 days and less than 181 days must request reemployment within 14 days of release from service. Employees have 90 days following their release from service to apply for reemployment if their military duty lasted more than 180 days.

In return, the employee can expect to go back to the position and status he would have held had he remained continuously employed, with full seniority. If the employee would have been promoted with reasonable certainty had he not been absent, he's entitled to that promotion upon his reinstatement. It's important to remember that this "escalator principle" can work against an employee, as it also applies to positions that have been eliminated or experienced salary reductions during the service member's absence.

USERRA also provides healthcare coverage for service members, but the rules vary depending on the length of their military duty. For military service of less than 31 days, healthcare coverage continues as if the service member remained employed. Those serving for more than 30 days may elect to continue employer-sponsored healthcare coverage for up to 24 months; however, they may be required to pay up to 102 percent of the full premium. USERRA also clarifies that all pension plans are protected.



When Conflicts Arise

Nearly half of our nation's military manpower strength is made up of Guard and Reserve personnel, who act as full partners in our military's integrated Total Force. As a result, these men and women will spend more time away from their civilian workplace more than any other time in history, defending the nation, supporting a demanding operations tempo and training to maintain their mission readiness. It's easy to understand why ESGR's role is expanding.

While most employers strive to follow the law and treat their Reserve Component employees fairly, problems sometimes occur. According to a December 12, 2010, *USA Today* article ("Veterans Get Boost in Designing New Careers," by Gregg Zoroya), the Pentagon's ESGR office reported a more than 80-percent increase in requests for information and a 30-percent increase in cases between 2009 and 2010. The article goes on to cite Department of Labor statistics that reflect a steady, though smaller, increase in case loads since 2005.

If Guardsmen and Reservists have issues with their employers, or vice versa, they have the option of contacting more than 4,700 ESGR volunteers spread across the nation. ESGR relies on approximately 650 trained ombudsmen to conduct free and neutral mediation when conflicts arrive. These USERRA experts can then advise the employer and employee of their respective responsibilities and suggest possible resolutions.

"The U.S. Department of Labor (DOL) is responsible for enforcing USERRA," explains Norwood. "Ombudsmen work to resolve problems before they escalate and we try to ensure DOL doesn't have to get involved. Fortunately, about 80 to 90 percent of conflicts are resolved with mediation and don't require legal action."

"About 99 times out of 100, employers violate USERRA out of ignorance," continues Norwood, "but the law is very clear. It's illegal for employers to discriminate against someone because of their military

service, their former military status or because they might be deployed in the future."

"(USERRA) prohibits discrimination and harassment due to military duties," clarifies Army Lt. Col. Ron J. Schwickerath, ESGR deputy director, Ombudsman Services. "Military service cannot be a factor in discriminating, hiring, or reemploying. It's discrimination even if it is not the motivating factor or the primary factor; it only has to be a factor."

Norwood is quick to point out that ombudsmen are not advocates for the military member. "It's our job to get the facts. We work with all branches of service and we understand that the service member is in the wrong sometimes, too. We're neutral; we're on the side of the USERRA law."

A Productive Partnership

The frequency and duration of service for members of the Guard and Reserve have grown considerably in recent years. As each military service works to effectively manage its workforce, civilian employers are implementing human resources policies that meet, and often exceed, legal requirements to support the men and women who serve.

During the presentation of the 2010 Freedom Awards, Assistant Secretary of Defense for Reserve Affairs Dennis McCarthy summed it up best, highlighting the key defense role played by the civilian employers of our nation's nearly 1.1 million citizen-servicemembers.

"One thing that we need to constantly keep in mind is that the great young men and women cannot do what they do in service of the National Guard and Reserve without the support of their employers."



Lauren Armstrong is the Contributing Editor and an LA FRA Member at Large. She can be reached at lauren@fra.org.



Corporal Jad Sleiman is an active duty combat correspondent at the Marine Forces Reserve Public Affairs Office in New Orleans, La.



For more information or to find a local ESGR representative, visit www.esgr.mil or call 1-800-336-4590.