

EMPLOYER SUPPORT OF THE GUARD AND RESERVE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) is the federal law that establishes rights and responsibilities for members of the Guard and Reserve and their civilian employers. USERRA affects employment, reemployment, employment benefits and retention in employment, when employees serve or have served in the uniformed services.

ESGR and USERRA: ESGR informs and educates service members and their civilian employers regarding their rights and responsibilities governed by USERRA. ESGR does not have statutory authority to enforce, but serves as a neutral, free resource to employers and service members. ESGR's trained ombudsmen provide mediation of employment and reemployment issues relating to compliance with USERRA.

Statutory Authority: Congress provided the statutory authority for investigating alleged violations of USERRA to the U.S. Department of Labor (DOL). If DOL finds that an employer has likely violated USERRA and is unable to secure voluntary compliance, DOL may refer the case to the U.S. Department of Justice for legal action against the employer.

Employers:

The law applies to all public and private employers in the United States to include federal, state and local governments; regardless of size. Providing that the service member meets all criteria, USERRA requires employers to provide the following:

- Allow employees to participate in military service
- Prompt reinstatement into a job following military service
- Accumulation of seniority, including pension plan benefits
- Reinstatement of health insurance
- Training or retraining of job skills, including accommodations for the disabled
- Protection against discrimination

Service Members:

In general, if the employee is absent from a position of civilian employment by reason of service in the uniformed services, he or she is eligible for reemployment under USERRA by meeting the following criteria:

- The employer had advance notice of the employee's service
- The employee returns to work in accordance with USERRA guidelines
- The employee has not been separated from service with a disqualifying discharge, or under other than honorable conditions



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Reemployment Timetable:

To be eligible for protection under USERRA, the service member must report back to work or apply for reemployment within the following guidelines:

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| 1-30 days of service | Report next scheduled work day* |
| 31-180 days of service | Apply for reinstatement within 14 days following completion of service |
| 181+ days of service | Apply for reinstatement within 90 days following completion of service |

*After 8 hours rest plus normal travel time from military training site to place of civilian employment.

Ombudsman Services: The ESGR Ombudsman Services Program provides information, counseling, and mediation of work place issues relating to compliance with USERRA. ESGR ombudsmen are neutral parties in resolving disputes between civilian employers and their employees serving in the Guard and Reserve. They work to resolve issues, in compliance with USERRA, to the agreement of both parties.

Hundreds of trained ombudsmen, located in each of the ESGR State Committees in all 50 U.S. states, Guam-CNMI, Puerto Rico, the U.S. Virgin Islands and the District of Columbia, are available to promptly respond to inquiries presented by employees or their civilian employers. Since many problems result from a lack of familiarization with the rights and responsibilities of each as defined by law, most of these requests for assistance are resolved quickly. When an ESGR ombudsman is unable to facilitate a resolution, parties are notified of the option to seek assistance through the Department of Labor/Veterans' Employment and Training Service for formal investigation and the option to seek private legal counsel.

USERRA QUESTIONS?

Our customer service center operates from 8am to 6pm Eastern Time, Monday through Friday, to provide answers to USERRA questions, or refer cases to a trained ombudsman.

Call our customer service center toll-free at 1-800-336-4590. Questions may also be asked at www.ESGR.mil by completing a USERRA Assistance Request Form.

ESGR DEVELOPS AND PROMOTES A CULTURE IN
WHICH ALL AMERICAN EMPLOYERS

SUPPORT AND VALUE

THE MILITARY SERVICE OF THEIR EMPLOYEES.

