

**Number 84, Web Site only:  
Notice to the Civilian Employer**

By CAPT Samuel F. Wright, JAGC, USNR\*

Q: I am the commanding officer (CO) of a Naval Reserve unit. What can I do to help unit members with their civilian employment problems?

A: The number one preventable problem in the employer-support arena is a lack of notice or insufficient notice to the civilian employer. I suggest that you establish a drill schedule, reduce it to writing, distribute copies to unit members, and then stick to the schedule, if at all possible. Each drill weekend, you should remind unit members of the need to keep their civilian employers informed about upcoming military-related absences.

USERRA requires advance notice to the civilian employer except in the most unusual circumstances where prior notice is precluded by military necessity or otherwise impossible or unreasonable. See 38 U.S.C. 4312(a)(1), 4312(b). The notice can be given either by the individual who is to perform the uniformed service or by "an appropriate officer of the uniformed service in which such service is performed." As the CO, you are certainly an "appropriate officer" to give such notice. I suggest that you send a letter to the employer of each unit member. Here is a sample:

Mr. Archie Bunker  
Archie's Place  
8755 Shore Dr.  
Brooklyn NY 22109

Re: BM2 John Smith, USNR—your employee

Dear Mr. Bunker:

I am writing to you concerning John Smith, an employee of yours who is a member of the Naval Reserve unit that I command. I am the commanding officer (CO) of Naval Reserve XXXX. [Say a few unclassified words about the mission of your unit. Avoid the use of military jargon.]

Today, under the Total Force Policy, almost half of our nation's military personnel are in the National Guard or Reserve. Using part-time personnel, rather than full-timers, is a good deal for the taxpayer. The men and women in the unit I command are paid only for the days when they perform military service or training, but they are available on short notice to return to active duty when needed. The cost to the taxpayer for a service member like John Smith is a small fraction of the cost of a full-time regular.

The September 11 atrocities remind us anew of the need for military preparedness. As I am sure that you can appreciate, it is essential that the

personnel in my Reserve unit engage in periodic training so that they can learn and practice the skills that they will be called upon to utilize when they are called to full-time service. There probably won't be time to train these people after an emergency arises.

Here is where you come in. I am writing to ask you, as John Smith's employer, for your cooperation and support to make it possible for BM2 Smith to participate in essential military training and service. I am enclosing, for your information, a schedule of our unit's training for the current fiscal year (through September). [You can vary this letter to use it for a unit mobilization or unit annual training.]

Under the Uniformed Services Employment and Reemployment Rights Act (USERRA), Mr. Smith has the right to time off from his civilian job for military training or service. USERRA requires advance notice to the civilian employer, except in unusual circumstances, and the law provides that an appropriate officer of the uniformed service may give such notice. As John Smith's CO, I am an appropriate officer, and this letter constitutes sufficient notice under the law.

In the Department of Defense, there is an Employer Support of the Guard and Reserve (ESGR) Committee. I invite you to check out the ESGR Web site for a copy of USERRA and other important information about the Reserve components and employer support. You can find the Web site at [www.esgr.org](http://www.esgr.org), and you can call the ESGR Committee, toll-free, at 1-800-336-4590.

As John Smith's CO, I want to work with you to make this process work. If you ever have any questions about Mr. Smith's military service, please feel free to contact me by telephone at xxx-xxx-xxxx or by e-mail at [sss@aol.com](mailto:sss@aol.com). On behalf of the Department of Defense, I thank you for your cooperation and support.

Sincerely,

John Paul Jones  
Captain, United States Naval Reserve  
Commanding Officer

I suggest that you send these letters by certified mail. Retain a copy of each letter, with the green postcard showing receipt, in your unit's files. Make sure that somebody in addition to you knows where to find them.

\*Military title used for purposes of identification only. The views expressed in these articles are the personal views of the author and are not necessarily the views of the Department of the Navy, the Department of Defense, the Department of Defense or the U.S. government.