

## **LAW REVIEW 1236**

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### **ESGR Serving 40 Years and Counting**

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#### **1.4—USERRA Enforcement**

This year marks the 40<sup>th</sup> birthday of Employer Support of the Guard and Reserve<sup>111</sup> (ESGR), a Department of Defense (DOD) organization founded in 1972, a year before Congress voted to abolish the draft. Senior DOD leaders recognized that with the end of the draft our nation would need to rely to a greater degree upon the National Guard and Reserve for cost-effective defense readiness, and the Total Force Policy was born. Those leaders also recognized that without the draft to spur enlistments for the Reserve Components, DOD would need to develop incentives and mitigate disincentives to part-time service in the Guard and Reserve.

One of the principal challenges to recruiting and retention in the Reserve Components has always been the resistance of civilian employers. Relying on Guard and Reserve personnel makes good economic sense for the nation—these folks are paid only when they serve, either in readiness training or in contingency operations. The cost to the nation of a Reserve Component service member is a small fraction of the cost of a full-time member, but this means that these part-timers need civilian jobs to support their families on a full-time basis.

The mission of ESGR is, and always has been, to gain and maintain the support of civilian employers (federal, state, local, and private sector) for the men and women of the National Guard and Reserve. Through public service announcements and events like “boss-lifts” and “breakfast with the boss,” ESGR gets the word out to employers about the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and about the need for civilian employers to cooperate in the national defense by supporting their employees and potential employees who are members of the Reserve Components. Through local, state, and national awards, culminating in the most prestigious Freedom Award, ESGR honors those employers who go above and beyond the requirements of USERRA in supporting employees who also serve in the Reserve Components. Through trained ombudsmen, most of whom are volunteers, ESGR works with employers and Guard and Reserve members to mediate disputes and to prevent small problems from becoming big problems.

In the last two years, ESGR (like much of DOD) has suffered from budget cuts. I realize that there are tremendous budget pressures in DOD, but cutting ESGR is a classic example of being penny wise and pound foolish. Through the Unemployment Compensation for Ex-Servicemembers (UCX) Program, DOD spends hundreds of millions of dollars per year paying benefits to recently separated veterans who are unemployed. DOD (or the Department of Homeland Security for Coast Guard veterans) is considered to be the “base employer” and picks up these costs. To the extent that ESGR can help separating service members to return to their pre-service jobs or find other jobs, ESGR can help DOD save a lot of this money, far beyond ESGR’s tiny budget.

Some ROA members have asked me if the Service Members Law Center is competing with ESGR, and I say, "Certainly not." We cannot replicate ESGR's 40-year history, its \$12 million annual budget from DOD, or its network of 5,000 volunteers. We are simply not trying to do this. Through the Law Review columns<sup>[2]</sup> and by answering e-mails and calls, we seek to get the word out about USERRA—to tell service members and employers about their rights and obligations. In 2011, I responded to 5,405 inquiries, and 188 of them were from ESGR volunteers. I welcome more ESGR calls and e-mails, as well as inquiries on USERRA, a law I had a hand in drafting. You can reach me toll-free at 800-809-9448, extension 730, and my e-mail is [SWright@roa.org](mailto:SWright@roa.org).

I am here during regular business hours and until 10 pm Eastern Time on Thursdays. The point of the Thursday evening availability is to make it possible for Reserve Component members to call me from the privacy of their own homes, outside their civilian work hours. If your employer is annoyed with you about your repeated calls to the colors, and if the employer is looking for an excuse to fire you, the last thing that you want to do is to give the employer the excuse that he or she is seeking. Thus, it is most important that you *not* use the employer's computer, e-mail system, telephone, or time to contact anyone seeking advice and assistance in dealing with your employer. I am willing to contribute one evening each week, and if we get enough calls I will expand this to include a second evening.

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[1] The original name of the organization was the National Committee for Employer Support of the Guard and Reserve. The current National Chairman of ESGR is Colonel James Rebholz, USAF (Ret.), ROA's National President in 1998-99.

[2] I invite your attention to [www.servicemembers-lawcenter.org](http://www.servicemembers-lawcenter.org). You will find 736 articles about USERRA and other laws that are particularly pertinent to those who serve our country in uniform, along with a detailed Subject Index and a search function, to facilitate finding articles about very specific topics.