

# **EMPLOYER SUPPORT OF THE GUARD & RESERVE**

## **What You Need to Know About the USERRA Law**

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# TOPICS

- USERRA – The Uniformed Services Employment and Re-employment Rights Act
- Who is ESGR?
- How can ESGR help you?



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# Changing Face of the Military

## Formerly

Draft  
Reserve in “Reserve”  
Independent nations

## Now

Total voluntary service  
Reserve is part of operational plan  
All nations are linked

## Implications

- ✓ G/R\* on active duty for extended time
- ✓ G/R units & individuals on repeated deployments
- ✓ G/R is nearly half of total military
- ✓ G/R currently serving in 14 countries
- ✓ Deactivated Since 9/11 – 715,540
- ✓ About 806,605+ G/R have served on active duty since 9/11/01

\*G/R = Guard / Reserve

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# WHO ARE GUARDSMEN & RESERVISTS

- National Guard and Reservists are our nation's citizen Warriors who are in the:
  - Army National Guard
  - U.S. Army Reserve
  - U.S. Marine Corp Reserve
  - Navy Reserve
  - Air National Guard
  - Air Force Reserve Command
  - U.S. Coast Guard Reserve

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# Uniformed Services Employment & Reemployment Rights Act (USERRA)

- **Primary purpose: Protect employment rights of persons who also serve in the uniformed service**

**That is:**

**Protect employees who engage in military service to the same level of seniority, status, pay and benefits that would have accrued, but for the service**

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# USERRA

## Service Member Responsibilities

- **Provide prior notice to employer**
- **Serve under honorable conditions**
- **Return to work in accordance with USERRA guidelines**

# Employer Requirements

- **Military obligations cannot be used as a motivating factor not to hire, promote, or deny a pay raise**
  - **Military leave of absence**
  - **Prompt reinstatement of employee**
  - **Restore seniority**
  - **Reinstate employment benefits**
  - **Training or refreshing of skills**
  - **No discrimination or retaliation**

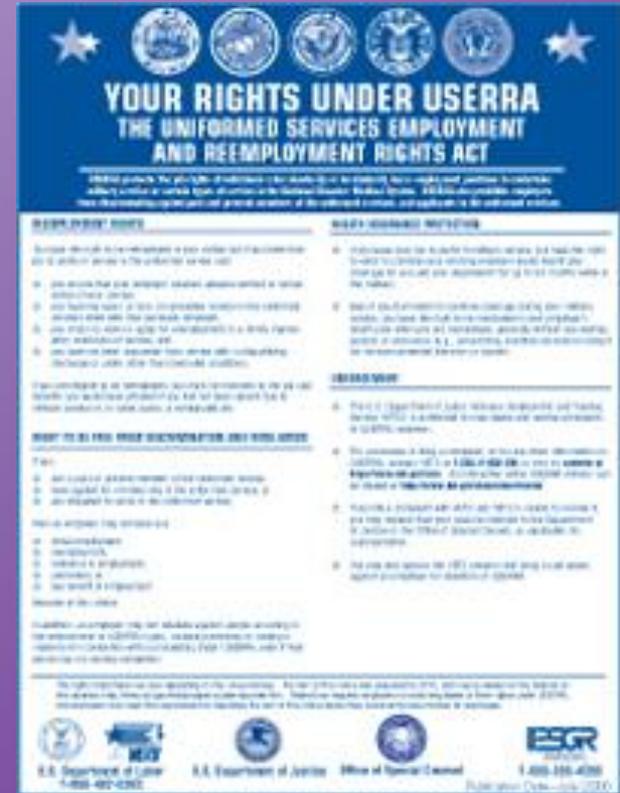
# Employer Requirements

## Veterans' Benefits Improvement Act of 2004 (VBIA)

- Requires employers to notify employees of their USERRA rights

## USERRA Poster

- Posting the USERRA Notice meets VBIA requirements
- Employers may download the USERRA Poster from the [ESGR.mil](http://ESGR.mil) website. It is located on the front page under [“USERRA Poster Download”](#).



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# **USERRA:**

## **Who is Covered?**

**USERRA has no statute of limitations**

**Applies to:**

- **Full-time or part-time employees**
- **Applicants for employment**
- **Employers with even one part-time employee**
- **Regular military, Guard & Reserve**

**If Service Member is:**

- **Federal active duty = Covered by USERRA**
- **Federally funded state active duty = Covered by USERRA**
- **State Militia on state active duty (floods, fires, hurricanes, security, etc.)  
= Not covered by USERRA but may be covered by a similar state law**
- **State active duty = Not covered by USERRA**

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# Service Member Responsibilities

- ✓ Have left a civilian job for military obligations
- ✓ Provide advance notice to employer of military service (preferably in writing)
- ✓ If on extended active duty, received a qualifying military separation (served honorably)
- ✓ Timely notice to return to work

<u>Service</u>	<u>Return to Work Within</u>
✓ 1-30 days	next shift after 8 hours of rest
✓ 31-180 days	14 days
✓ 181 + days	90 days

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# Frequently Asked Questions

- Does USERRA protect G/R Service member if service was voluntary or weekend drills?
- Is G/R Service member required to provide written orders for military duty?
- Does the G/R Service member have to find a replacement for their absence on military duty?
- Does G/R Service member have to use vacation for military service?

# Top USERRA Violations

- **Termination**
- **Discrimination**
- **Job Placement**
- **Pay Rate**
- **Work Schedule**

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# **ESGR is the G/R & Employer Support Network**

- **The DoD agency established to gain and maintain employer support for the Guard and Reserve**
- **Over 4,700 volunteers in all States, Territories, and District of Columbia**
- **Assist Employers & G/R Service Members**
  - ✓ **understand their rights and responsibilities under USERRA**
  - ✓ **mediate USERRA related employment issues**
- **Employers Provide means to encourage & reward employers who do more than the minimum for G/R Service members**

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# Vision & Mission

- **VISION**

- Develop and promote a culture in which all American employers support and value the military service of their employees with ESGR as the principal advocate within DoD.

- **MISSION STATEMENT**

- We will develop and promote employer support for Guard and Reserve service by advocating relevant initiatives, recognizing outstanding support, increasing awareness of applicable laws, and resolving conflict between employers and service members.

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# Advocate, Recognize, Inform, Mediate

- **Advocate**

- Relevant Initiatives

- **Recognize**

- Statements of Support identify supportive employers
- A “graduating” scale of employer awards – Patriot Award, Above and Beyond, Pro Patria culminating with the Secretary of Defense’s Employer Support Freedom Award

- **Inform**

- Employers and service members on their rights and responsibilities under USERRA

- **Mediate**

- Cadre of highly trained personnel (Ombudsman) act as neutrals to mediate USERRA issues

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# Employer Outreach

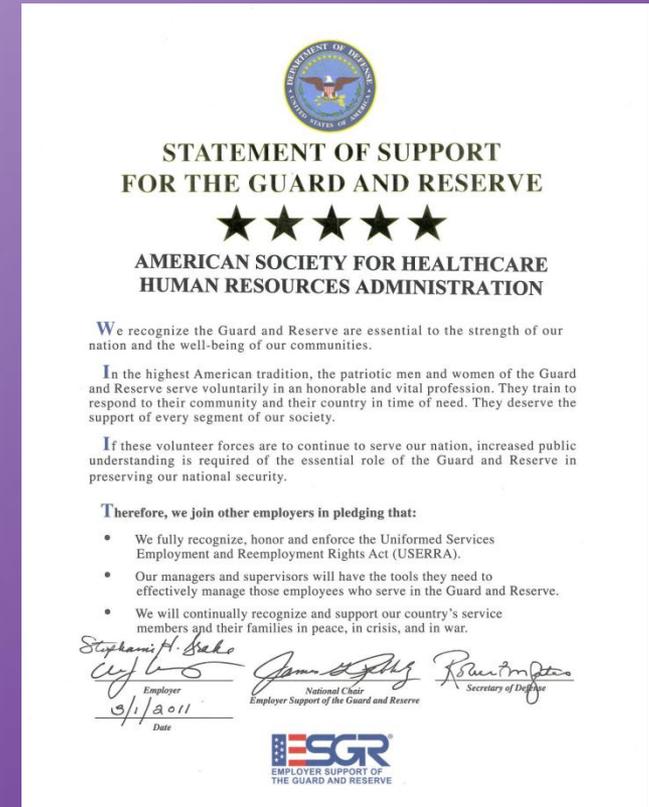
- Educate Employers about their rights and responsibilities under USERRA
- Encourage Employers to develop HR policies that go above and beyond the law
- Contact employers for participation in the Statement of Support program
- Initiate and manage employer events
- Recognize employers who meet or go beyond the law through awards



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# Statement of Support Employers Agree:

- We fully recognize, honor and enforce the Uniformed Services Employment and Reemployment Rights Act (USERRA)
- Our managers and supervisors will have the tools they need to effectively manage those employees who serve in the Guard and Reserve
- We will continually recognize and support our country's service members and their families in peace, in crises, and in war



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# Military Outreach

- ✓ Brief G/R service members on USERRA & ESGR, particularly just prior and just after deployment
- ✓ Gain & maintain relationships with area G/R leaders and units
- ✓ Send direct mail on USERRA / ESGR to G/R Service members
- ✓ Encourage SOS signings among military leadership
- ✓ Engage recruiters
- ✓ Work with public affairs to place information in military/civilian publications, web-sites and newsletters

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# Ombudsmen

- **Specifically trained ESGR Team who proactively assist Service members and employers resolve USERRA employment related problems**
  - ✓ **Are confidential, neutral participants in all efforts**
  - ✓ **Provide information and answer questions**
  - ✓ **Serve as a mediator on USERRA issues between Service members & employers**
  - ✓ **Resolve most cases within 14 days**
  - ✓ **Are qualified by National ESGR after intensive training**

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# What Employers Have Provided Service Members

- Regular contact with Service members (Email, Care Packages, etc.)
- Home maintenance
- Family assistance
- PC's & connections for Service members and families
- Differential Pay: Making up the difference between normal salary and Reserve salary
- Providing health insurance for families at home
- “Wall of Honor” with pictures of G/R

# Q & A

- How do I learn more about ESGR or USERRA?

- ✓ <http://www.esgr.mil>

- “about ESGR”
- “USERRA FAQ”
- “Tips for G/R”

- Contact at:

- ✓ Email: [USERRA@osd.mil](mailto:USERRA@osd.mil)

- ✓ Phone: (800) 336-4590

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**Thank You**

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