



Know Your ESGR Rights

By Ray Luppe ESGR Representative

Well, you got the word. Your unit will be mobilized. You knew it was coming, but you tried not to think about it. You just got engaged. Your fiancée is going to flip out. Your folks said they will help you pay your bills. Maybe your brother will drive your car while you're away, just to keep it in good shape. What if he wrecks it? This is way too much to worry about. And what do you tell your boss?

The National Committee for Employer Support of the Guard and Reserve (ESGR) can't help you with your little brother, but we can help you with your job. ESGR seeks to promote a culture in which all American employers support and value the military service of their employees.

ESGR Mission Statement

ESGR is a Department of Defense agency established in 1972. Its mission is to gain and maintain employer support for Guard and Reserve service by recognizing outstanding support, increasing awareness of the law, and resolving conflicts through mediation.

Step one - Notification

The first thing you have to do is tell your employer you're being called to active duty. The sooner you tell your boss, the better. Prior notification of the pending deployment will give your employer a chance to line up and train a replacement for you while you are away. You may notify your boss either verbally or in writing; written notice is better. Give the employer a letter, either from you or your military commander, along with a copy of your orders. There can sometimes be a problem with the timely publication of orders and, if that is the case for you, a letter from your commanding officer will suffice until orders can be sent.

Step Two - Conversation

Talk to your employer. Tell them what you will be doing. Help them understand that this deployment is important and that it will make you a more valuable member of their team upon your return. Tell the boss you would like to keep in touch while on active duty. Ask for his or her e-mail address. Maintain regular contact. Use e-mail to keep your supervisors and co-workers informed about your deployment. They will e-mail you back, trust me. Provide your employer with your contact information as soon as you get to your duty station and tell your employer when you will be returning and your reemployment intentions.

Step Three - Relaxation

You need to know your job is protected. You have rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA). The law will protect your claim on your job as long as your release from active duty is under honorable conditions. Disqualifying service is defined as,

Separation from the service with a dishonorable or bad conduct discharge.

Separation from the service under other than honorable conditions. Regulations for each military branch specify when separation from the service would be considered "other than honorable."

Dismissal of a commissioned officer in certain situations involving a court martial or by order of the President in time of war.

Dropping an individual from the rolls when the individual has been absent without authority for more than three months or who is imprisoned by a civilian court.

While you are away you will be on a military leave of absence. During that time you cannot be required to use earned vacation

or similar leave days. Additionally, military service will not be counted as time away from the employer for retirement purposes.

USERRA seeks to ensure that members of the uniformed services are entitled to return to their civilian employment upon completion of their service. The law applies to all employers, regardless of the size. It protects part-time positions, unless the employment is for a brief, non-recurring period and is not expected to last indefinitely or for a significant period.


Please note: USERRA does not protect independent contractors and others considered to be self-employed.

You are entitled to "prompt reemployment" upon your return. Prompt reemployment will depend on the circumstances of each individual case. You are entitled to seniority, seniority-related benefits (including pension), status and rate of pay as if you were continuously employed during the military absence. You are also entitled to immediate reinstatement of health insurance for yourself and all previously covered dependents, with no waiting period and no exclusion of preexisting conditions, except conditions determined by the government to be service connected. You are also entitled to training or retraining by your employer if it is needed to qualify you for reemployment. If you became disabled while on active duty, or a disability is aggravated by military service, your employer must make reasonable efforts to accommodate the disability.

Time limits for returning to work depend on the duration of a person's military service. For periods of service of 1 to 30 days, a person must report to his or her employer by the beginning of the first regularly scheduled workday that would fall eight hours after the end of the calendar day. If, due to no fault of the employee, timely reporting back to work would be impossible or unreasonable, the employee must report back to work as soon as possible. For periods of 31 to 180 days, an application for reemployment must be submitted no later than 14 days after completion of military service. Again, if due to no fault of the employee, timely reporting back to work would be impossible or unreasonable, the employee must report back to work as soon as possible. If the 14th day falls on a day when the offices aren't open, or there is otherwise no one available to take the application, the time extends to

the next business day. Service of 181 days or more requires the service member to apply for reemployment no later than 90 days after completion of military service. If the business is not open on that day, the time extends to the next business day. The reporting or application deadlines are extended up to two years for persons who are hospitalized or convalescing because of a disability incurred or aggravated during the period of military service.

Step Four - Recognition

Do you have an employer who has been supportive of your military service? You owe it to your employer then to submit them for an ESGR award. Nomination forms can be found online at www.esgr.mil. Show your boss you appreciate their support. And take care of yourself over there. 

*Got questions on ESGR or USERRA?
Contact me at editor@ameriforce.net.*